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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

7 May 1984

VOLUME 141

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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
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Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Monday, the 7th day
of May, 1984.

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

APPEARANCES:

P.S.A. LAMEK, Q.C. }	Commission Counsel
E. CRONK }	
D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor General
	of Ontario (Crown Attorneys
	and Coroner's Office)
I.G. SCOTT, Q.C. }	Counsel for The Hospital for
I.J. ROLAND)	Sick Children
M. THOMSON)	
D. YOUNG	Counsel for The Metropolitan
	Toronto Police
K. CHOWN	Counsel for numerous Doctors
	at The Hospital for Sick
	Children
E. McINTYRE	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children

(Cont'd) ..



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APPEARANCES (Continued):

F. FISCHER	Counsel for Susan Nelles - Nurse
P. RAE	Counsel for Phyllis Trayner - Nurse
J.A. OLAH	Counsel for Janet Brownless - R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin, Mr. & Mrs. Gionas, Mr. & Mrs. Inwood, Mr. & Mrs. Turner, Mr. & Mrs. Lutes, and Mr. & Mrs. Murphy (parents of deceased children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic Lombardo (parents of deceased child Stephanie Lombardo); and Heather Dawson (mother of deceased child Amber Dawson)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines (parents of deceased child Jordan Hines).

VOLUME 141



E R R A T A

Volume	Page No.	Line	Discrepancy
136	1276	8	"it wasn't 225" should read: "it wasn't 25"
	1304	3	"iii" should read "IR"
137	1406	5	"see many fellows" should read: "see many fewer fellows"
138	1937	17	"four nurses" should read: "for nurses"
139	2196	13	"Halpern" should read: "Halperin"
	2197	1	"Halpern" should read: "Halperin".



INDEX of WITNESSES

<u>Name</u>	<u>Page No.</u>
<u>DAWSON, Heather; Sworn</u>	2416
Direct Examination by Mr. Shanahan	2416
Cross-Examination by Ms. Cecchetto	2499
Examination by Mr. Lamek	2504
<u>HINES, June; Sworn</u>	2510
Direct Examination by Mr. Tobias	2510
Cross-Examination by Mr. Shanahan	2597
<u>LOMBARDO, Dominic; Sworn</u>	2598
Direct Examination by Mr. Shanahan	2598
Cross-Examination by Ms. McIntyre	2648



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--- Upon commencing at 10:00 a.m.

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THE COMMISSIONER: Yes, Mr. Lamek?

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MR. LAMEK: Mr. Commissioner, as I explained last week the witnesses that we have today are three of the parents who are involved in this matter. I know it is normal for Commission counsel to exhaust their evidence before calling on others to lead theirs. As you know, sir, it has been arranged that counsel for these families would indeed lead the evidence of their own clients. I understand that Mr. Shanahan is first to lead the evidence of Mrs. Dawson. I am wrong obviously.

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MR. TOBIAS: No, you are not wrong. Mr. Shanahan's client will be called first, but on behalf of the Hines family I have a short statement to make to you, sir, and I wonder if I can make it now?

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THE COMMISSIONER: Yes, certainly.

MR. TOBIAS: Sir, there is an issue that has arisen over the past week or so. Perhaps it arose earlier, but it has certainly been highlighted and emphasized in the last week, which Mr. and Mrs. Hines have asked me to deal with, and would like me to deal with before you in an open and public manner. It deals with certain media



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reports that they are concerned with.

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As you may know, sir, in the past seven to ten days there have been several media programs which have been aired dealing essentially with, amongst other things, the fairness of this entire process and whether or not the entire process was appropriate.

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I can advise you, sir, that I appeared on one of those programs personally and expressed the views of my clients. What we are concerned about is that the impression seems to have been given, and we hope we are wrong, but the impression that we have been left with is that somehow this Commission has failed in its mandate because this Commission has failed to find a murderer, and it has failed to find conclusive evidence of murder. That because of that failure the Commission has somehow lost some of its validity; and because it has lost some of its validity the perception of the way certain witnesses have been treated has less justification.

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May we say on behalf of June and Adrian Hines, sir, that notwithstanding the position that we have taken before in Divisional Court and in the Court of Appeal, it was never our perception that the mandate of this Commission was to



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find a murderer. Nor was it ever our perception, sir, that the mandate of this Commission was to find murder. We have understood from the very beginning that it was the task of this Commission to conduct an open and public inquiry, in the broadest sense, into all of the circumstances of how the children who died on the cardiac wards of the Hospital came to their death.

It may well be that at the end of the process you are satisfied on the evidence that some or all of the children came to their deaths by other than natural causes, and if that is the case so be it. It may also be, however, that you are satisfied at the end of the process that none of the children met their deaths by foul play. But we think it is wrong, and we want to say openly today to the media and through the media to the people of the province, that it is wrong to assume that this Commission set out with a preconceived idea of what happened, and set out on the task of finding murder or a murderer. That was certainly never our understanding of the Commission's mandate and we would be shocked and amazed to find out that that was your perception, sir. Thank you.

THE COMMISSIONER: Yes. Thank you, Mr. Tobias.



A.4

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Yes, Mr. Shanahan?

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MR. SHANAHAN: Good morning, Mr.

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Commissioner. The Provincial Court has been shut
down today.

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THE COMMISSIONER: Shut down for the
day, good.

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MR. SHANAHAN: That is the only
reason I could make it. As far as I act on behalf
of Heather Dawson, Mr. Commissioner, the mother of
Amber Dawson, we would like to call her to the stand
to give evidence here at this Commission. Would
you come forward please, Mrs. Dawson, step up here
and be sworn.

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HEATHER DAWSON, Sworn

DIRECT EXAMINATION BY MR. SHANAHAN:

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Q. Mrs. Dawson, at the outset I
would like to, for the Commissioner and my colleagues
here, I would like to introduce you and some of your
personal antecedents before this Commission. You
hail now presently from Sudbury, is that correct?

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A. That is correct.

21

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Q. You were originally born in
Kirkland Lake, and lived for a while in southern
Ontario, and I take it met your husband and went to
live with him in Sault Ste. Marie?



A.5

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A. Yes.

3

Q. Amber actually was born in

4

Sault Ste. Marie?

5

A. That's correct.

6

Q. And then you leave for Sudbury

and live in Sudbury with your child Amber?

7

A. That's right.

8

Q. You had no children prior to

9

Amber?

10

A. No.

11

Q. But since then you have had

12

one daughter by the name of Tiffany?

13

A. That's right.

14

Q. And she is two years old, is

that correct?

15

A. That's correct.

16

Q. And she is healthy in all

17

respects?

18

A. Oh, yes.

19

Q. You are employed now and you

work for the Sudbury Taxation Centre?

20

A. That's correct.

21

Q. We won't hold that against you.

22

A. Great.

23

Q. Amber was born in Sault Ste. Marie

24

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A.6

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on August the 25th, 1979?

3

A. Yes.

4

Q. Perhaps then you can take over

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from there. I take it initially Amber Dawson was a
small child?

6

A. Yes, she was.

7

Q. And as well as that it soon

8

became apparent that she had some problems?

9

A. Yes.

10

Q. Perhaps you can flush that out

11

for us?

12

A. When Amber was born she was

13

quite small. They didn't realize initially that it

14

was a heart problem, they were treating her for an

15

infection. I was released from the hospital, they
kept the baby there and then they didn't tell me

16

exactly that there was definitely a heart problem but

17

they said they were sending her to Toronto for testing

18

for a heart problem.

19

Q. The Hospital you were dealing

20

with was Plummer Memorial Hospital?

21

A. Yes.

22

Q. I take it you had your own

23

family doctor during the pregnancy, but when the

24

child was born the child was then taken over, as is

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the custom there, by a paediatrician?

A. Right.

Q. So any information you were getting and that you were acting upon was in fact information you were getting from a paediatrician who was a Dr. Cole?

A. That's correct.

Q. A lady doctor?

A. A lady doctor.

Q. And I take it from your evidence that Amber was kept on in the hospital in order to assess her but you were released home?

A. Yes.

Q. At some point in time you are made aware then of what her condition was and what you say the battle line is?

A. Yes. Toronto Sick Children's Hospital got in touch with me and they had done the catheterization and discovered the hole in her heart; and they go on to tell me they are going to do a temporary banding up an artery to enable her to grow. Hopefully by the time she is two she will be bigger and stronger and go with the open heart surgery at that time.

Q. It appeared to you that either

(2)



A.8

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the Plummer Memorial Hospital people, either didn't know or perhaps didn't want to convey to you what might be the problem with Amber?

4

A. Yes.

5

6

Q. What they did advise you was that in fact they would be sending you on to Sick Children's and that Sick Children's would then inform you what the precise nature of the problem was?

8

9

A. Yes.

10

11

Q. I take it the child herself was flown down, is that correct?

12

A. That's correct, she was flown down.

13

14

Q. But you stayed on behind in Sudbury?

15

A. Yes. In the Soo at that time.

16

17

Q. I am sorry. It was your understanding that in fact they would get back to you and advise you and that is precisely what they did, is that correct?

19

A. That's correct.

20

21

Q. What was your impression when you were advised there was a hole in the heart? Were you given any sort of discussion, this was your first child and it was your first encounter I take it

22

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A.9

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with heart problems of any kind?

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A. Yes.

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Q. I know that in the course of her life you were to become very familiar with heart problems. But then and there what was the first things that were being told to you about her heart, the type of operation and things of that nature?

8

A. By the Sick Children's Hospital?

9

Q. That's correct, yes.

10

11

12

13

A. They didn't indicate to me that it was a major problem. They felt the banding was the best thing. As far as heart problems went it wasn't a very serious - there was no arteries that had burst, it was quite straightforward.

14

15

16

Q. You say no arteries were burst?

A. Like other children with heart problems, Amber's was very minor.

17

18

19

20

Q. And yet at the same time it was clear that the main surgery, that is of actually repairing that hole in the heart, was going to be held off until she was two?

21

22

A. Yes.

Q. And that the immediate thing

was the banding?

23

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A. Yes.



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Q. And was it indicated that the fact so risky was this operation that perhaps you had better come yourself on down to Toronto?

A. No.

Q. Did you in fact come down to Toronto?

A. I was going to come down to Toronto. I had made the arrangements, booked the flight and she had already had her surgery by this time. I was going to come down and in the meantime they had flown her back to the Soo.

Q. So unbeknownst to you she was back in the Soo and you were happy to have her back?

A. Oh yes.

Q. You never made it down here to Toronto?

A. No.

Q. In retrospect though that was indicative to you of the seriousness or the lack of it of the first phase of the surgery, that was the pulmonary artery banding?

A. Yes.

Q. Amber comes home, and I take it stays on in Plummer Memorial Hospital for a time?

A. Yes.



A.11

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Q. Generally recovering?

3

A. Recovering, gaining weight.

4

Q. In relation to her birth on
August the 25th, when did you feel that the first
operation took place?

6

7

A. It would have been in
September some time.

8

9

Q. All right. She is up in
Plummer Memorial Hospital for two or three weeks
and home to you roughly when?

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A. During October, I don't recall
the exact date.

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BM/hr

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Q. First of all what then did you observe about her condition. She would still be a very young child and was obviously a very small child, even her birth weight was small, is that correct?

A. Yes.

Q. All right. Now you have her home and she is a first child for you, how is she in terms of the health that you observed?

A. Well, she was a very good baby, you know, as babies go she was an exception. Health wise since I really didn't have anything at that time to compare her to, I thought she was doing, you know, well, the only problem was she was very hard to feed and very hard to bring gas after.

Q. Burp?

A. Burp.

Q. Just about her disposition you had nothing to compare her to then about whether she was fussy or irritable or whether she was late in sleeping through the night and things of that nature. But you since have another child?

A. Yes.

Q. All right. So, comparing her



1
2 to the healthy one now how did Amber stack up?

3 A. Oh, Amber was a great baby
4 compared to the one I have now.

5 Q. All right. A placid child?

6 A. Oh, very much so. She hardly
7 ever cried, very very content.

8 Q. Easy going?

9 A. Oh, yes.

10 Q. All right. Was she a good
11 sleeper?

12 A. Oh, yes, I would wake her
13 for her feedings.

14 Q. All right. But you certainly
15 had a problem and that problem was that it was
16 difficult feeding?

17 A. Yes.

18 Q. All right. Would it be
19 fair to say that the act of feeding itself tired
20 her out?

21 A. Yes.

22 Q. All right. And feeding became
23 a job for you and for her?

24 A. More for her than for me, yes.

25 Q. All right. And it became
apparent that she wasn't gaining weight like you or



1
2 any other mother would like her to do?

3 A. At that point she was gaining
4 weight, not to say that she was gaining as a normal
5 baby would but I think everybody at that time was
6 pleased that she was gaining weight at all. But it
7 obviously showed that the banding was working to some
8 degree.

9 Q. All right. She wasn't on
10 any monitor, she wasn't on any sort of supplementary
11 oxygen?

12 A. No.

13 Q. All right. Apart from the
14 feeding she would breath normal room air?

15 A. Yes.

16 Q. And would her colour be -
17 do you understand the term cyanosed.

18 A. Blue?

19 Q. Blue.

20 A. Yes.

21 Q. And what was her colour like
22 to you during the day?

23 A. She looked fine to me.

24 Q. All right.

25 A. You know, a doctor would
probably think otherwise, you know.



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Q. See more subtle signs?

3

A. Yes.

4

Q. I take it after the first

5

operation as well you first introduced her to digoxin?

6

A. Yes.

7

Q. All right, and it is apparent

8

that you are going to have to dispense digoxin,

9

administer digoxin to Amber at least until she is
two years old and maybe thereafter?

10

A. Yes.

11

Q. Who educates you about digoxin,

12

who tells you about it?

13

A. Dr. Cole.

14

Q. Dr. Cole. This was the

15

pediatrician that you initially had and that had
seen the problem?

16

A. Yes.

17

Q. And had referred her on to

18

Sick Childrens?

19

A. Yes.

20

Q. Okay. And what Mrs. Dawson

21

is it that you were told about digoxin and how to
administer it?

22

A. I was told what the drug did,

23

that it slows her heart rate. She had to have her

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digoxin in order to live at that time, I had to be
very accurate in the measurement of the digoxin at the time
when she came home. That is basically what I was
told.

5

6

Q. All right. How did you give
the digoxin to her?

7

8

A. I gave it to her orally with
the syringe.

9

10

11

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Q. All right. Did you have the
syringe described to you. I take it Dr. Cole before
releasing her sort of, you being a new mother went
through all the routines, the feedings and what have
you?

13

14

A. Yes, at the hospital.

15

16

Q. And one of them was digoxin?

17

18

A. Yes.

19

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Q. All right. Were you shown
a syringe and told the sizes of the syringe and how
to use them?

21

22

A. Yes.

23

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Q. All right, what sort of
syringe were you using at the time?

25

A. For digoxin it was a 1 cc
insulin syringe.

26

Q. I take it it was small?

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A. Yes.

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Q. All right. And 1 cc for

4

the layman here would be a teaspoon, a tablespoon,

5

a half a cup?

6

A. Oh, a very small quantity,

7

maybe maximum a half teaspoon at maximum.

8

Q. All right.

9

A. Probably a quarter of a

10

teaspoon.

11

Q. All right. The digoxin would

12

come in a bottle, would it?

13

A. Yes.

14

Q. All right. Was it essentially

clear or have a colour or what?

15

A. To me it looked like it had

16

a tint of green to it.

17

Q. All right. I'm sure you didn't

18

go around swigging it yourself, but did you ever get

19

an opportunity to taste it yourself?

20

A. Oh, yes.

21

Q. And what was the taste of it?

22

A. It tasted - well, it wasn't

an unpleasant flavour, it was a little bit of a lime

23

flavour I would say.

24

Q. All right. You would draw

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then up the digoxen into the 1 cc syringe I take it
out of the bottle?

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A. Yes.

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Q. And then you would drop it
into her mouth?

6

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A. Yes.

8

Q. All right. Now, you have

9

described how much 1 cc is but surely Amber didn't
get the 1 cc, did she?

10

A. No.

11

Q. How much were you giving

12

Amber at the time?

13

A. I can't exactly remember

14

the quantity but it would be a very small portion of
1 cc, .25, .27. That would amount to maybe five
drops of water, maximum, very small quantity.

15

16

Q. So although you can't

17

remember today precisely what her doses was, I take
it that you knew from the markings on the tube that
out of that 1 cc or quarter teaspoon, whatever you
like, you gave her something in the decimal point
area?

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A. Yes.

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Q. All right. And you think the

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2 range, as you recollect back, was that of a figure
3 .25 to .27?

4 A. Yes, somewhere in there. It
5 might have been lower. I am sure it would have not
6 been higher.

7 Q. All right. And that dose
8 would was given to you by Dr. Cole?

9 A. To administer to her twice
10 a day.

11 Q. You felt that constituted
12 about five drops?

13 A. Yes.

14 Q. How many times a day?

15 A. Twice a day.

16 Q. Twice a day. How would she
17 take that, would she curl up like it was vile or --

18 A. Oh, no, she always took her
19 medication quite easily.

20 Q. All right. Was anything
21 said to you about perhaps maybe putting it in her
22 feed, in her formula, trying to get it into her that
23 way?

24 A. You couldn't do that because
25 you really don't know whether a baby is really going
to eat all their food and since she had to have an



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exact amount of digoxin you would not put it in her food, like, how would you know she was going to eat all her Pablum on that particular time.

5

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Q. It was so crucial she got five, no more and no less that to give it to her in her formula and she maybe ending up really substantially only getting three or three and a half drops Dr. Cole had made it --

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A. When she needed five, right.

Q. I'm sorry.

A. Well, like, if she needed five drops you couldn't take the chance and only give her three.

Q. All right. And again in terms of giving it to her and making sure that she got it, was anything told to you about the condition of the syringe itself, perhaps the factor of air bubbles or anything of that nature?

A. Yes, she could not have any air - when you drew the digoxin up in the syringe you would have to hold it up and knock any air bubbles out to make sure that the syringe was full with the digoxin, an exact amount.

Q. And therefore that she got all of that?



BM/hr

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A. Yes.

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THE COMMISSIONER: I'm sorry, could we just take a moment, Mr. Shanahan. If you don't fill up the syringe don't you have to have air in it, in the rest of it, you said that you got rid of the air bubbles?

THE WITNESS: Yes. Well, if there were a larger bubble you would have to keep drawing it up until you got it drawn up properly.

MR. SHANAHAN: If it isn't clear, sir, feel free.

THE COMMISSIONER: Well, no, I just don't know. It's my own ignorance on the thing but it seems to me in a syringe, if you have a .1 cc syringe and you have a quarter of a cc of digoxin you have got to have air in the syringe, don't you? Why these bubbles, where do you find the bubbles? The bubbles are in the digoxin itself, are they?

THE WITNESS: I don't know what causes it but sometimes when you draw up a syringe, like, fluid into a syringe you will get air bubbles in it. For some reason you have to, if you hit the syringe they will go up to the top and if there was too much of a gap obviously she wasn't getting .25 or .27 and you would draw it up again to get it



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as close as possible.

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MR. SHANAHAN: Q: All right. You say that in October then you have the child released home?

6

A. Yes.

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9

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Q. You are giving her the digoxin according to the instructions and then December 25th, Christmas day, 1979, some four months after her birth, four months really to the day, an incident takes place. What is that?

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A. Amber goes into heart failure.

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/RD/ln

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A. Amber suddenly started crying and, like I said, she wasn't a baby to cry very often needlessly and she started crying and her colour didn't look as good as it did earlier and I called the doctor and she met me right away.

Q. All right. Then what happened?

A. Then Amber was admitted into the hospital and put on oxygen and stabilized.

Dr. Cole, at that time, did not realize that she should have been testing the digoxin level for Amber by blood samples and she was doing it by weight.

Q. Before you go any further, your understanding was that Amber was being weighed and that the digoxin given --

A. Adjusted accordingly.

Q. All right.

A. -- which wasn't adequate for Amber.

Q. Who told you this?

A. Dr. Cole.

Q. I see. Where did Dr. Cole find out this information, in order to sort of redirect yourself.

A. She -- when Amber went into the Hospital and was in heart failure she got in touch



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with Sick Childrens in Toronto and they instructed her and she told me.

Q. And the new system was going to be that, in fact, her blood levels would be taken?

A. Yes.

Q. And, therefore, more accurate about what the proper dose was?

A. Right.

Q. All right. As you look back on that, or as Amber was released again to you, what was your conclusion about the cause of that event on Christmas, December 25, 1979?

A. Well, I remember going home and with the new digoxin level, like it was such a small quantity difference, like if I had of been giving her .27, let's say, it might have dropped or gone up to .25 or .29. Like it was such a small change in the digoxin and that what had actually put her into heart failure was incorrect. It was at that time that I began to realize that this is a very dangerous drug. It would be lethal to give a child a large quantity of it. I don't know why I felt that at the time, but it just came to my mind that this is very dangerous.

Q. In fairness as well, you



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realize I take it, there is nothing wrong about this pulmonary artery operation. The banding hadn't caused this heart failure.

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A. Not at all. It was definitely the level of digixin that had caused her to go into heart failure.

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Q. And further impressed upon you the necessity for accuracy and how much you were going to give her?

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A. Yes.

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Q. What happened in the months that followed?

A. Well, after that I moved to Sudbury. Amber went into heart failure periodically due to colds, infections. That sort of thing would also put her into heart failure. She couldn't fight off very much of any other diseases, because of her weight or whatnot. Then in March she went into heart failure and she was taken into Laurentian Hospital in Sudbury. Then at that point I really don't know why her paediatrician, at that time, got in touch with Sick Childrens and they decided that the banding was not working properly.

Q. I take it that being small and having the heart problem that she had chest colds



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and this was around the winter of 1979, chest colds and colds had settled on the respiratory system had a particularly damaging effect on Amber?

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A. Yes.

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Q. How would you recognize? You are now starting now, obviously, to become familiar with heart failure. How would you recognize when Amber would go into heart failure, as you call it?

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A. She would become tired. That was a symptom. Sometimes fever, urine output would be low, colour ---

12

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Q. Would change?

A. Yes.

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Q. Who advised you and what did you think about the significance of urine output for a child. Obviously you are a layman and it is your first child.

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A. Well, over a period of time with Amber being in and out of the hospital to realize that children with heart problems, that their urine output is very important. During heart failure their urine output is very low. Their bodies seem to retain the fluids.

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Q. When you would see these symptoms all together in Amber, you would realize,



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as she became more listless and tired that she was
in fact, falling into heart failure?

A. Yes.

Q. You would immediately contact
your paediatrician?

A. Yes.

Q. Finally you indicate the feeling is th
pulmonary banding hasn't been completely effective?

A. Yes. I really don't know why
they came to that conclusion that the banding was
not working.

Q. Having moved from Sudbury, was
it?

A. Yes.

Q. And now left behind Dr. Cole and
you have a new paediatrician; is that correct?

A. From the Soo to Sudbury. I have
a new paediatrician whose name is Dr. Veale.

Q. Does Amber return to the Hospital
for Sick Children?

A. Yes.

Q. She does? By plane?

A. Yes.

Q. In March?

A. Yes.



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Q. Had you been told before she left what the precise nature of the new operation is going to be or has that been left up to the Hospital for Sick Children?

A. That's been left up to the Hospital.

Q. All right. How long is Amber in the Hospital, even before surgery is planned or commenced or anything of that nature? What sort of assessment period there?

A. Oh, I would say two weeks. I am not 100% sure. One week, two weeks.

Q. Some period of time she is being assessed?

A. Yes. It wasn't rushing into open heart surgery or anything like that.

Q. You still remained in Sudbury, am I right?

A. Yes, I come down shortly after, prior to her surgery.

Q. Prior to her surgery?

A. Yes.

Q. She was certainly here a few weeks on her own?

A. Yes. But I believe it was a



1
2 a few weeks.

3 Q. Were you kept informed by the
4 Hospital by the various doctors as to what was going
5 on?

6 A. Yes.

7 Q. Certainly in terms of no immediate
8 operation, it doesn't appear to me that you were
9 conveyed any sense of particular urgency there?

10 A. No. They had to go through the
11 catheterization again and, you know, all of the
12 testing and whatnot.

13 Q. All right. What did you learn
14 and what were you advised about her condition and
15 what were they going to do now to assist her?

16 A. They decided that they were going to
17 go ahead with the open heart surgery to repair the
18 small hole in her heart.

19 Q. The operation that was originally
20 scheduled for two years of age is going to be moved
21 forward?

22 A. Yes, they have decided that --

23 Q. Do it now in spite --

24 A. Do it now.

25 Q. Right. You were pleased with it?

A. Yes, I was.

Q. I take it you came down to the



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Hospital and you were down here in Toronto with her
on this occasion for a number of weeks?

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A. Months.

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Q. All right. How long is she in
the Hospital prior to surgery to the best of your
recollection?

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A. Two to three weeks.

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Q. All right. She has surgery.
Who describes her or who tells you precisely what the
surgery will be and who the doctor will be that
performs it? Do you know who the doctor is that
performed it?

13

A. It was Dr. Trusler.

14

Q. Did you meet with him sometime?

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A. I don't recall meeting with him
prior to surgery. I met him after surgery. I think
Carol Putherbough was the co-ordinator, the parent
co-ordinator and I had the most dealings with her
on the particular day of surgery.

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Q. You certainly meet Dr. Trusler
on the day of surgery?

21

A. Yes.

22

Q. What was conveyed to you about
the operation and its successes?

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A. I was told the operation was a



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2 success and that for the next 24 or 48 hours Amber's
3 condition was critical, but stable and I sort of
4 decided they probably tell this to all parents "my
5 child is" --- you know -- "basically fine". Like
6 they never conveyed, like, you know, "go and see her"
7 you know "she has only got a 10% chance" or anything
8 like that, you know "the operation was a success",
9 but she was in ICU and therefore there is some risk.

10 Q. She does go into ICU and she
11 was there for three to four weeks, is that correct?

12 A. Three weeks.

13 Q. Three weeks. All right. That
14 was a long period of time?

15 A. Yes.

16 Q. You were aware of that?

17 A. Yes.

18 Q. Gradually part of the knowledge
19 that you assimilated over this period of time was
20 that in most instances they weren't there quite that
21 long?

22 A. Yes.

23 Q. All right. Did you get concerned
24 over the length of that stay?

25 A. I wouldn't say concerned. They
never gave me reason to believe that I should be



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really concerned. They said she was having trouble coming off the respirator and that it happens, you know, in other children, it's not the most unusual thing. You know some children have trouble coming off the respirator after open heart surgery and Amber was one of them.

Q. You gather they were attempting to wean her away from the respirator and that as they tried on this daily basis that Amber just simply required it?

A. Yes.

Q. What was the event that finally gets Amber down to the ward?

A. One day I came into the Hospital, in ICU and they were moving her to the ward.



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Q. And were you pleased with that?

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A. Oh, yes.

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Q. And she was off the respirator?

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A. Yes.

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Q. Rather like riding a bike, one day she couldn't do it and the next day she could?

7

A. Yes. That shocked me. I thought

8

it was sort of a different process where she would stay

9

off of it for two hours and go back on it for a

10

period. That is what I was kind of looking for to

11

happen. But all of a sudden one day she was back to

12

the ward.

13

Q. And you were happy for her as

14

far as she is concerned because it means she was getting

15

better and, as a result, would be home quicker?

16

A. That's right.

17

Q. That ward at that time was, I

18

take it, on the 5th floor, is that right?

19

A. Yes.

20

Q. So her first release is to the

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5th floor?

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A. Yes.

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Q. So you dealt with Amber and

24

dealt with nurses on the 5th floor?

25

A. Yes.



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Q. How long did you deal with them before Amber is shifted?

A. No, the first time she was on the 5th floor.

Q. Yes.

A. Just for a day or two during that time, and then she was on the 4th.

Q. That is what I was getting at. So then she is in 4A, and that is your first dealing with 4A too?

A. Yes.

Q. And your reaction to that?

A. It was a much nicer ward, very bright, colourful; I was much happier with it.

Q. How long then is she in the ward set-up before you finally get to take her home?

A. I don't recall how long it was. I was -- actually, I felt Amber was doing quite well. She was on just, you know, just her medications. She wasn't requiring oxygen. There was the problem with her diaphragm.

Q. I'll deal with that in just a moment.

A. I was -- I wanted her moved back to the Sudbury hospital so I could go home. I didn't



1
D3 2 feel the need for her to be in Sick Children's. You
3 know, with the type of care they were giving her,
4 I thought they could probably do the same thing at
5 Sudbury. There was nothing unusual about her care
6 here.

7 Q. Once she got to the ward and
8 off the monitor and off the respirator?

9 A. Right. Off the monitor, you
10 know, I was pushing them for her to go.

11 Q. You had been away from home...?

12 A. A long time.

13 Q. All right. They agreed with
14 you?

15 A. Well, they did eventually send
16 her to Sudbury Hospital, yes.

17 Q. Before she is discharged then,
18 you are aware that there is one remaining problem
19 that has cropped up now that didn't exist before?

20 A. Right.

21 Q. And that problem was described
22 to you as what?

23 A. Actually, it was in ICU.

24 Q. You became aware of that?

25 A. I became aware that she had a
paralyzed diaphragm, one side was paralyzed.



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Q. Do you remember - not a great deal turns on this, but do you remember who might have told you this, discussed this ramification?

A. No, I don't. They told me it wasn't anything very serious; that this happens quite frequently in open heart surgery, I guess because of the movement and so on, but sometimes the diaphragm will come back on its own. Other times, it won't, and what they do is a very simple operation and they bring them in and tie it off so it is not flapping loosely as the child is trying to breathe.

Q. You understood from the very nature of all the massive sort of incisions and cuts they had to make through the chest for the open heart surgery that one of the side effects sometimes is the damage to that nerve of the diaphragm itself?

A. That's right.

Q. But that over the many months of repair and knitting back, sometimes it spontaneously seems to come back itself?

A. Yes, and this is what they were hoping for.

Q. And they left that with you after, to see if in fact it would rectify itself?

A. Yes.



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Q. Did you get to meet--certainly in that sense, on the first occasion you had not come down from Sudbury because she had been turned around so quickly but on this occasion you had been at the Hospital. Have you dealt with -- you certainly met Dr. Trusler?

A. Yes.

Q. And Carol Putherbough and other nurses that you got to know now over this long stay?

A. I would say not on a first-name basis. I'm not that sort of person. A nurse was a nurse; they were caring. My concern was my child; not a social life here.

Q. And to their credit, they were not as well trying to 'small talk' and introduce themselves on a first-name basis?

A. No.

Q. So nobody sticks in your mind?

A. If they told me their first names, I really didn't make a point to remember them at that time.

Q. Now you took Amber home and what did you observe, what was her condition for the next few weeks?

A. Well, Amber was released to the



1
2 Sudbury Hospital and eventually they released her into
3 my care again.

4 Q. Did you see an improvement in
5 her condition?

6 A. Oh, yes. Yes, there was an
7 improvement in her condition. She was peppier and
8 more energetic and starting to function as a normal
9 baby, to do things, to roll over, to play, to laugh.

10 Q. Does she ever again, in your
11 presence, go into heart failure?

12 A. No.

13 Q. Ever, in spite of the fact
14 of whether she gets a cold or doesn't get a cold or
15 whatever?

16 A. No.

17 Q. Anything at all bringing Amber
18 into heart failure again?

19 A. No.

20 Q. In terms of the exhaustion,
21 you might say, or sleepiness or drowsiness you might
22 have seen before she went into heart failure, did you
23 ever see that old listlessness set in again?

24 A. No.

25 Q. What about eating problems?

A. Still has a definite eating



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problem.

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Q. And what to you, as you perceived it, what is the nature of that problem again?

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A. Well, because of the diaphragm, Amber did, her breathing, when she was eating was very erratic, like she had difficulty breathing and sucking on a bottle at the same time. Force feeding - I was beginning to believe that because Amber was constantly force fed that she did not have much of an appetite for food of any sort, like you know, that was the last thing that child really wanted to do, was eat.

12

13

Q. Because of her earlier association you felt feeding time itself had bad connotations for Amber?

14

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A. Right. Then the diaphragm problem, she still had some difficulty breathing and sucking on a bottle; she did tire out doing that.

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Q. Trying to do the two functions; that is, suck on the bottle and swallow whatever is coming out and also breathing sufficiently --

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A. Yes.

Q. -- was tuckering her out?

A. Yes.

Q. I take it the whole feeding experience, even if you tried to push her, was really



D8 1
2 becoming a difficult process?

3 A. Yes.

4 Q. You were seeing a pediatrician?

5 A. Yes.

6 Q. The pediatrician's name is?

7 A. Dr. Veale..

8 Q. And over the months then what
9 takes place, or what **decision** do you here arrive
10 at?

11 A. We know we have an appointment
12 in Toronto for July 23rd.

13 Q. Can I interrupt you there. Why
14 did you know that?

15 A. Well, when we left, when she
16 left Sick Children's, there was an appointment made
17 on an out-patient basis for her to come back for a
18 checkup.

19 Q. A follow-up?

20 A. A follow-up.

21 Q. All right.

22 A. So we know we have that. On a
23 weekly basis, I take Amber to the doctor for, you know,
24 a weight -- check her weight, you know, make sure
25 everything is fine.

Q. You were still giving her



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digoxin as prescribed?

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A. Yes. every day.

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Q. Every day?

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A. Every day.

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Q. Twice a day?

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A. Twice a day.

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Q. No problems ever again with the
dosage?

9

A. No, no.

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Q. You are taking her once a week --

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THE COMMISSIONER: Just a moment.

Was it the same dosage?

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THE WITNESS: No.

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THE COMMISSIONER: It was smaller?

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THE WITNESS: I don't recall whether

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it was smaller or larger. No, it would not be the
same dosage.

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THE COMMISSIONER: Did you have any

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tests as to her level? Did they take any tests as to
her level at all at the hospital - I'm talking about
the Sudbury Hospital?

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THE WITNESS: Oh, yes. She was tested

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different times for her level of digoxin, to make sure
that it was adequate for her.

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THE COMMISSIONER: How often would they

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2 take her in, do you remember?

3 THE WITNESS: Once a week to the
4 doctor, yes.

5 THE COMMISSIONER: Then would he take
6 a little blood to test it? Is that what would happen?

7 THE WITNESS: Yes. He would send me
8 up to the hospital for the blood test.

9 MR. SHANAHAN: Q. And more to the
10 point, none of the old difficulties from a clinical
11 point of view? She was sleeping and she had alert
12 mentality and never went into heart failure?

13 A. No.

14 Q. I guess the proof was in the
15 pudding there; that is what you were happiest with?

16 A. Yes. But she still was not gain-
17 ing weight to any degree.

18 Q. That is what I was going to get
19 at. Was the main problem then over the intervening
20 months before you get to the follow-up in July, would
21 it be fair to say that the main problem is the failure
22 to thrive and the lack of gain in weight?

23 A. Yes, this is the concern.

24 Q. And really the function then is
25 a much simpler problem than the hole in the heart?

A. Yes.



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Q. And what do you and Dr. Veale resolve you are going to do?

A. Well, when Amber started to lose a little weight, and at that point I asked the doctor, I said, do you think -- this is about two weeks prior to the appointment here. I said, "Do you think we should send her to Toronto now?" He said, "No, no, she will be fine." We waited, and he explained to me that, you know, it is probably the diaphragm. Like, this was our thought at the time. It is because of her diaphragm that she is having trouble eating and just not gaining weight. Of course, in fact along with that, I thought, yes, you have been force feeding this child for the last eleven months, you know, I am not surprised that she doesn't want to eat.

Q. And it is you that has been doing it? There is no blame here - you were force feeding her?

A. Yes.

Q. Trying to get food in desperately?

A. Yes, because, like, you are going on a once-a-week basis and you are kind of being judged as a mother - "Has your child gained weight this week?" You know. But I am coming to the



1
D12 2 conclusion, you know, this has got to stop now; like
3 I'm not going to continue to force feed my child.
4 You know, I would like to try another approach to see
5 if it is psychological, if psychologically she does
6 not have an appetite for food.

7 Q. And I take it in terms of her
8 weight that the finest line of what we are talking
9 about is ounces here?

10 A. Oh, yes. If she gained an
11 ounce that was incredible - I was a good mother that
12 week, yes.

13 Q. And if she lost an ounce, you
14 were concerned?

15 A. Yes.

16 Q. As well as that, you say about
17 the diaphragm problem, I take it by inference it
18 has not come around?

19 A. No, it is not coming back.

20 Q. And by a process of elimination
21 that, to you, is the one remaining problem so let's
22 get on with it?

23 A. Yes. I am kind of getting
24 anxious, this two weeks she has lost some weight, I
25 am getting anxious, so let us get her into Toronto
and get that surgery done, then we will see, and if it



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is not that, then it has to be a psychological problem and the child does not want to eat.

Q. And of course, as a mother, I guess you are concerned because she is definitely starting to fall behind, at least to fall behind her colleagues?

A. Oh, yes. She has fallen quite far behind now through hospitalization, lack of stimulation.

Q. The doctor doesn't feel that moving it up just two weeks is going to be of any great event; leave it until July?

A. No. He said just wait for your appointment.

Q. One final thing here. Are you taking her, in that time period, to any kind of other therapy, if you like, to try and make up for the lost time that the operation had taken from her?

A. Yes. Once or twice a week we went to -- Infant Stimulation would come in; therapy at Laurentian Hospital to strengthen her muscles. It just went on and on and on and on; health nurses.

Q. And she was able to withstand all of this and to participate in all of these programs?



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A. Oh, yes. Mother had trouble
but...

Q. Down you come then in July, I
take it?

A. Yes, July 23rd.

Q. Do you come down with her?

A. Yes.

Q. This is for the follow-up, but
it is evident in your mind that because of the
communication you have had with your pediatrician and
the communication you assume he has had with the
Hospital, that it is not going to be a turnaround
visit; she is going to go in and we are going to
assess her?

A. Definitely going to be admitted,
yes.

Q. And she is admitted. Do you
remember the day of the week she is admitted?

A. Wednesday.

Q. You are here with her?

A. Yes.

Q. You have accommodation here in
town?

A. Yes.

Q. And you are going to stay with
her?



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A. Yes.

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Q. The length of the stay has not
been ascertained?

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A. No.

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Q. There is no surgery set for her?

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A. No.

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Q. And take it from there?

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A. On Wednesday she was admitted.

10

Thursday, the first day, it was more or less, you know,
to get her into her room and whatnot. I really didn't
talk to too many people.

11

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Q. She is on 4A?

13

A. Yes.

14

Q. In Room 418?

15

A. Yes.

16

Q. Okay.

17

A. Thursday I came down and they

18

have decided to go with a nutritional program, which
I am opposed to right off the start, but you know,
the nutritionist comes in and talks to me; Amber, you
know, should be on foods with more calories in them
like mashed potatoes and, you know, whatever else.

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So they decided they are going to go -- they are going
to see how she eats before they decide a date of
surgery for the diaphragm.

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Q. And it would be fair to say that, given your experience on a day-to-day basis trying to feed her and all the difficulties you had, you will concede now that about that aspect of one more try as to feeding her with different types of food, you really had a bit of a closed mind about that?

A. Yes.

Q. That route does not greatly appeal to you?

A. Not at all.

Q. I think you got as us far as Friday. She more or less got familiarized on Thursday. Friday, she is being assessed by a nutritionist dealing with her. What is her condition?

A. Well, on the the Thursday they started the new diet. Friday, I went in and I felt Amber was not quite herself; she seemed tired to me. I mentioned it to a nurse and said, "I'm a little concerned about Amber; she is not herself today. She looks a little tired to me." Over the course of the day, I was beginning to think Amber was going into heart failure. You know, she is realty tired, you know; she is just not her happy, bubbly self. The nurses reassured me that she was fine. I even suggested that her urine output seemed a little low. I



1
D17 2 was again reassured that she was fine.

3 Q. Did you have anything to base
4 that on? Were you looking at any charts or anything
5 of that nature?

6 A. The Hospital weigh the diapers
7 from the children and it is recorded. Yes, I was
8 looking at that, and I thought her urine output had
9 been a little low. So, at any rate, they reassured
10 me that Amber is fine and that, you know, they don't
11 really know what is causing it; she is fine, she is
12 not in heart failure.

13 —

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3 So, on Saturday I come back and Amber
4 is a little better and I am pleased with this. She
5 is not back to normal yet but she is a little peppier
6 for sure and, you know, they are trying their diet
7 and what not and still the same medication, she is
8 not on oxygen, nothing, they are just assessing her
9 with the new diet sort of thing.

10 Q. No doctor has taken you aside
11 with any overall battle plan, it is the nutritionist
12 is essentially dealing with her ?

13 A. Yes.

14 Q. All right. That is Saturday
15 there is an improvement, Sunday?

16 A. Sunday I come in and Amber
17 is definitely back to normal, she is happy, bubbly,
18 we go for our walks. You know, I'm really thrilled.
19 I thought obviously she was not going into heart
20 failure the other day she is fine, you know, and
21 I was quite pleased with it.

22 That evening, I believe it was for her
23 evening meal, I went out for supper and a nurse fed
24 her. When I got back a parent in the room
25 told me that Amber had vomited quite violently her
supper and I got upset. I never said



1
2 anything to the nurse or anything but I decided this
3 is it tomorrow morning I am coming in here, I'm
4 going to talk to the doctors. There are not very
5 many doctors around on a Sunday but on the Monday
6 I thought I'm coming in here and I'm going to find
7 out when they are going to do this operation, I don't
8 want any more of this nutrient stuff, you know, my
9 child is now vomiting because they are force feeding
10 her. I stayed with Amber and Amber didn't show any
11 signs of the trauma of vomiting, she was fine, happy.

12 Q. So, in fairness, this was just
13 an event that you had heard about while you were
14 away?

15 A. Yes.

16 Q. And really firmed up your
17 resolve tomorrow, Monday, doctors will be in, I will
18 come in and I'm really going to sort of insist we
19 get this final bit of surgery done?

20 A. Yes.

21 Q. All right. You leave, mind
22 you, Amber is certainly settled and pleasant and
23 sleeping and the rest of it?

24 A. Oh, yes, she didn't show any
25 signs of the trauma of vomiting.

Q. What time did you leave? Do



1

2

you know when the shift changes are in terms of the
nurses and that?

3

4

A. Yes.

5

6

Q. All right. Did you leave
before the 7:00 o'clock shift change?

7

A. Yes, I did. I left the
hospital about 6:30.

8

9

Q. All right. So, you didn't
meet that night shift at all that night?

10

A. No.

11

12

Q. All right. Now, when you
had checked into the Hospital, not being from Toronto,
had you given them an address and phone number where
you were staying?

13

14

15

A. Yes, when Amber was admitted
on the Wednesday, I know I left the phone number of the
people that I was staying with. Now, I don't know
whether that was in the admitting or on the ward,
I don't know but I know the phone number was left.

16

17

18

19

Q. All right. Be that as it
may, home you go on that Sunday evening and as you
leave Amber she has been fine that day?

20

21

A. Yes.

22

23

Q. You have taken her around
the ward yourself. What is the next that you hear,

24

25



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that you are advised of?

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A. The police come to the door at about 6:00 o'clock in the morning and ask me to call the Hospital. I call and Dr. Rose tells me that Amber has died during the night.

8

9

10

Q. All right, and you come down to the Hospital?

11

12

A. Yes.

13

14

Q. All right. Now, you arrive there and who do you meet?

15

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A. Dr. Rose meets me and also Susan Nelles.

19

20

21

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Q. All right.

A. I don't recall who else was there.

Q. All right. By that time now, you said on the earlier occasion you had met nurses but you hadn't identified any or gotten to know them that well?

A. No.

Q. On this occasion now, were you putting names to faces?

A. No.

Q. Or in fairness is it subsequently now you know who you were dealing with?



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A. I know now who I was dealing
with at that time.

4

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6

7

Q. All right. And do you know
now who you were dealing with at that meeting and
are you now able to say who you had dealt with over
the previous days and visits in terms of nurses?

8

A. Yes.

9

Q. All right. And I take it then
that Nurse Nelles was there?

10

A. Right.

11

12

Q. And Nurse Nelles had dealt
with Amber before?

13

A. Yes.

14

15

Q. All right. And I take it
you have some complimentary things to say in that
regard?

16

17

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19

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A. Yes. When I read the charges
against Susan I was quite shocked because I remembered
Susan as being the nurse where you could ask her to
do something extra and she would always do it. She
was a very caring person.

21

22

23

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25

Q. And I believe that morning,
to confine it there, not to jump ahead to the charges,
even that morning you arrived at about what time?
The police notified you did you say at 6:00 o'clock in



1

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the morning?

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A. It was roughly 6:00 a.m. and the police drove me down to the Hospital. I can remember checking my watch and realizing the shift change and I wanted to see the nurses that had been with Amber during the night and I arrived at the Hospital, it must have been about five or three minutes to seven and Susan Nelles was still there and she stayed with me well after her shift was over and I thought that was very nice of her to do that.

12

Q. You noted that as well?

13

A. Yes.

14

15

16

Q. All right. Do you recollect after having on that occasion then, and even prior to that then, can you now put a name to a face in terms of ever having dealt with Phyllis Trayner?

17

A. No.

18

Q. You now know what Phyllis Trayner looks like?

19

A. Oh, yes.

20

Q. All right. And you don't recollect ever having dealt with her?

21

A. I don't recall, no.

22

23

Q. But you're not firming saying that you didn't?

24

25



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A. No, I obviously did but I

3

don't --

4

Q. All right. That conversation

5

then with Susan Nelles and Dr. Rose, obviously the

6

child has died and what is the conversation that

7

takes place, what is the nature of your questions or
your concerns?

8

A. I asked how she had died what

9

had happened. They told me that she had become

10

lethargic, her heart slowed, stopped, they could

11

not revive her.

12

Q. What did you say to them?

13

A. I don't recall my exact

14

words to them at the time really. As the morning

15

goes on I am asked to sign for the Hospital to do an
autopsy.

16

Q. All right. The issue of an

17

autopsy then comes up?

18

A. Yes.

19

Q. What is your position there

20

with those individuals about the autopsy?

21

A. I told them I wanted an

22

autopsy done. I don't recall my exact words but I

23

indicated that I did not want it done by the Hospital

24

for Sick Children.

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Q. All right. And what did you mean by that, what did you intend to convey by your request that, yes, an autopsy but not by the Hospital itself?

A. Well, in my own mind I felt that Amber had died of some sort of a medication error, digoxin overdose. I just couldn't believe that I left a baby happy in a crib and died during the night when there was no problem. I at that time became very suspicious that something had happened.

Q. All right. And what did you base - you have mentioned some of it - what were you basing - you were arriving at a conclusion very quickly now, what were you basing it on ?

A. What was I basing it on.

Q. You had obviously dealt with digoxin before?

A. Well, yes, knowing how lethal the drug was.

Q. You had seen her in heart failure before?

A. From it, the signs, she told me that she became lethargic, her heart slowed, stopped, they could not revive her. That sounded pretty consistent to what digoxin would do if there



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was a medication error.

3

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Q. The operation you had been advised and you had seen was successful itself, that second operation?

6

A. Yes.

7

8

Q. She had never been in heart failure again?

9

A. No.

10

11

Q. And obviously to you, and you gathered I take it from the people you were dealing with, her death had caught everyone by surprise?

12

A. Yes.

13

14

Q. As well as that, what else do you do, Mrs. Dawson, in terms of making that request?

15

16

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18

19

A. Well, I didn't want to accuse or insult anybody, so, I was very cautious in how I was wording this and I don't believe I ever said this to anyone at the Hospital that I thought she had died of a digoxin overdose.

20

21

Q. But you certainly said about an outside autopsy?

22

23

24

25

A. Yes. At 9:00 o'clock I kind of held off until 9:00 o'clock, I left the Hospital and I went outside and called the lawyer to find out



BM/hr

1
2 my rights.
3 Q. You didn't hale from Toronto
4 at the time?
5 A. No.
6 Q. I take it that you didn't
7 know a Toronto lawyer?
8 A. No.
9 Q. So, how did you go about
10 picking one out?
11 A. I picked one out of the
12 yellow pages.
13 Q. Simply went down the list ?
14 A. Yes.
15 Q. And just picked out a lawyer
16 at 9:00 o'clock in the morning?
17 A. Yes.
18 Q. For the record, that lawyer
19 wasn't me?
20 A. No.
21 Q. It was just the sound of
22 my name or something?
23 A. No.
24 Q. All right, so you picked
25 a lawyer out and you don't know who that lawyer was
now?



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A. No, it was a female lawyer.

3

4

Q. And you spoke to her and you said you wanted to know your rights?

5

A. Yes.

6

7

8

Q. Are you connecting that, if you want to know your rights in relation to your right to insist upon an outside pathologist doing this autopsy?

9

10

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13

14

A. Yes. At one point in time I heard or thought that if somebody died under unusual circumstances that an autopsy had to be performed. So therefore if I didn't sign for the Hospital to do it it would have to be conducted through a coroners office and I wanted to know whether that was true.

15

16

17

18

Q. All right. You wanted to assess whether the coroner would do it and I take it you wanted to assess whether, by the coroner doing it, it would necessarily mean an outside pathologist?

19

A. Yes.

20

21

Q. All right. You got your advice and your instructions there?

22

A. Yes.

23

24

25

Q. All right. And would it be correct to say that you felt that you could insist that



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it either go on to the coroner or an outside
pathologist that in fact would do it?

3

4

A. Yes.

5

6

Q. All right. You returned
again to the Hospital later in the day?

7

A. Yes.

8

Q. All right. And who do you
meet and encounter there?

9

A. I meet with Dr. Olley.

10

11

Q. All right. Had you ever
dealt with Dr. Olley before this?

12

13

14

A. I have spoken to him. I don't
recall meeting him prior to that but I might have
briefly.

15

16

Q. Was this an arranged meeting
somewhere in the Hospital or just a meeting by
chance?

17

A. It was an arranged meeting.

18

19

Q. All right. But you in fairness
can't recollect where it took place?

20

A. No.

21

22

Q. All right. And what was
the nature of your conversation with Dr. Olley?

23

24

25

A. Dr. Olley is again pushing for
the autopsy and I am again pushing for a coroner to



1
2 be brought in and I am obviously irritating the man
3 and he finally said to me, fine, if that's the way
4 you feel Mrs. Dawson I will call the coroner and I
5 knew I had upset him and at that point I started to
6 think to myself, am I a grieving mother, am I here
7 for revenge. Like, I was starting to get worried that,
8 you know, maybe I am just a grieving mother.

9 Q. Did it cause you to reassess to see
10 whether in fact you are being objective about every-
11 thing, the child has just died that morning?

12 A. Yes, am I over-reacting to
13 something.

14 Q. All right, or are you just
15 looking for an axe to grind?

16 A. Right, revenge, my child is
17 dead, you know, am I doing this out of hate, bitterness,
18 whatever.

19 Q. And what conclusion did you
20 come to with respect to your motives on that
21 occasion?

22 A. I definitely decided that I
23 am not out for revenge, that I felt that Amber died
24 under unusual circumstances, it could very well in
25 fact have been an overdose of digoxin and I wanted
an outside opinion on it and I didn't feel a pathologist



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at the Hospital would jepordize his job to tell me
that somebody had made an error.

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Q. All right and I take it that

really implicit in that feeling was that you were

assuming as well that an autopsy would involve, in a

situation such as Amber's death, that it would look

at physical cause of death, and would involve as well

enough toxicology to eleminate those drugs that she

was taking at the time of her death as a cause of her

death?

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A. Yes.

Q. All right. And I take it as

well that although you thought about digoxin, in

fairness you weren't addressing the issues of whether

this had been done deliberately or whether it was

an accident?

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A. I never ever thought it was

deliberate.

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Q. All right. Your dealings with

the nursing staff and the Hospital staff up to this

time had been on all occasions very satisfactory?

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A. Yes.

Q. All right. You speak to

Dr. Olley. In fairness do you bring up now the issue with

Dr. Olley about your concerns specifically about digox n?



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A. No.

3

Q. But clearly by inference

4

by the fact that he gets irritated you are certainly

5

suggesting to him, as you have suggested before, that

6

in fact you feel the Hospital, or the difficulty

7

about her death may lie somewhere in the Hospital

8

itself?

A. In Hospital error, yes.

9

Q. I take it you leave him not

10

on the best of terms?

11

A. True.

12

Q. All right. And where do you

13

go to next.

14

A. Later that afternoon, I

15

believe it was Carol Putherbough told me that Dr.

16

Bunt was the coroner.

17

Q. All right.

18

A. So, I arranged to go up to

19

his office.

20

Q. Did she advise you to in

21

fact to get in touch with him or that a meeting had
been set up?

22

A. I don't recall that. I

23

remember calling his office and going up to meet him.

24

Q. All right. So, now, this has

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been a very full day, you are now in the afternoon,
I take it?

A. Yes.

Q. All right. The afternoon of her death
and you go to the coroner's office, Dr. Bunt, that
office was located there on --

A. In the Gulf Building on
University.

Q. All right. You go there and
you meet Dr. Bunt?

A. Yes.

Q. Did you have a discussion
with Dr. Bunt about your child's death and the
circumstances surrounding her death?

A. Yes.

Q. Are you alone or with somebody?

A. My sister is now with me.

Q. All right. Is Dr. Bunt
accompanied by anybody?

A. No.

Q. Does anyone there appear to
be taking notes?

A. No.

Q. All right. What is your
conversation with Dr. Bunt. He obviously hasn't ever



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met you before. Did you understand him to know the circumstances of your child's death or was he asking for you to fill him in about it?

A. I filled him in on what happened.

Q. What did you tell him?

A. I told him that I thought her death was unusual, that she was fine when I left her at 6:30 at night, you know, probably as fine as she was any other day since the open heart surgery. I recall saying to Dr. Bunt I do not want to find out that she died of an overdose of digoxin.

Q. How would you describe the nature of the discussions here. Were you pleased with them as you spoke to Dr. Bunt?

A. Yes.

Q. How did you find him?

A. He was a very caring concerned person.

Q. All right.

A. I felt confident that he was going to do a good job.

Q. All right. And you were confident I take it then that that issue that had troubled you at the Hospital would now be resolved



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because you looked at Dr. Bunt as an outside third
party?

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A. Yes.

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Q Are you prepared to say the discussion with Frank had been open?

A Yes.

Q You said what was on your mind?

A Yes, I did.

Q You specifically remember that comment that you didn't want to find out that your child died of an overdose of digoxin?

A I distinctly remember it, yes.

Q Can you tell us then whether, in fact, quite apart from just that comment, the issue of digoxin or a possible overdose or your concern about a medication being tested for did come up?

A No, it wasn't brought up again. I assumed that somewhere in Ontario law that if a person died under unusual circumstances and it was a lethal drug it would automatically be checked, you know. I just assumed that. Like what happens, you know, when people are given a prescription of sleeping pills and, you know, they find them dead in their bed in the morning, obviously they check to see if they took an overdose. So I assumed somewhere in Ontario law there would have to be a law stating that if someone is on a lethal drug it would be checked during an autopsy.



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Q Quite apart from just assuming it as well, is that you had actually brought up, as you say --

A I had brought the subject up, so I was, you know, relieved of --

Q All right. When was your next contact with Dr. Bunt?

A Approximately two weeks later.

Q What was the nature of it? It was a telephone conversation --

A Yes.

Q -- to come back home?

A Yes.

Q He called you?

A Yes.

Q What was the nature of that conversation?

A He tells me that the initial findings was that an abscess had burst.

THE COMMISSIONER: I am sorry "an abscess had burst"?

THE WITNESS: Yes.

MR. SHANAHAN: Q Do you know the location of that abscess?

A He probably told me where it



F.3

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was. I don't recall at this time. In the stomach area.

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Q What was your reaction to that, or, first of all, did he convey that to you with any reaction that this was par for the course, he had seen this many times, it is unusual?

7

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A He said it happens sometimes after surgery, that abscesses do form, but they are usually picked up upon, you know, through -- the child is usually, fevers, that sort of thing and the doctor will pick up on it.

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Q All right.

A That was her initial findings.

Q You knew, too, that as he said that, Amber hadn't had any surgery on that day?

A It had been months previous.

Q Months previous. Did you advise him of that in any way --

A No.

Q Discuss with him why the abscess hadn't been or couldn't be found?

A No. I went with this was initial findings. He impressed upon me this was only initial findings; it wasn't, you know, like 100 per cent the cause of death.



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Q. Did they tell you when in fact the final autopsy report would be out?

A. Yes, approximately two months.

Q. What was the next contact you had with Dr. Bunt?

A. I believe he calls me and he says that he has a final report and I make arrangements to come down.

Q. All right.

A. To meet with him.

Q. There was no discussion of the report, it is just that he has the typed-up document and it would be good for you to come to Toronto and meet him and go through it?

A. Right.

Q. You are going to make the trek down to Toronto. Do you do anything else, as you decide to come down to Toronto and meet Dr. Bunt?

A. Yes. I am so sure that the report is going to show something that my child, other than natural causes, I make an appointment with a medical lawyer here in Toronto for the same afternoon after I talked to Dr. Bunt.

Q. This time you don't use the yellow pages?



F.5

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A. No.

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Q. This time what do you do to
get yourself referred to, as you put it, a medical
lawyer?

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A. There is in the phone book in
Sudbury, there is in the yellow pages an ad for the
Law Society of Ontario or something like that. I
called them and told them what I wanted and they
told me that Mr. Brown, I believe in Toronto, is a
medical lawyer or deals with medical cases and I called
his office and made an appointment for the same
afternoon that I was coming to see Dr. Bunt.

13

14

Q. So it is a lawyer referral
service, as you understood it?

15

16

A. Yes.

17

18

19

Q. And you still haven't been
referred to me, you are told about me?

20

21

22

23

24

25

A. Oh, no.

Q. Now, then, you phoned down to
Toronto?

THE COMMISSIONER: You wouldn't have
got him anyway, he was in the Provincial Court at
that time.

MR. SHANAHAN: Save the best to the
last, is that right?



F.6

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Q. So, in any event, you phoned down from Sudbury and you made yourself an appointment and you were going to go in and see, I take it, Dr. Bunt first?

A. Get the information and go right to the lawyer.

Q. And then go and get to the lawyer. You obviously were so sure in your mind that you thought you would have proof positive in this outside pathologist and his report?

A. Yes.

Q. All right. And down you come to Toronto and you have an appointment set up with Dr. Bunt; is that right?

A. Yes, but there was a mix-up in the appointment making. As it turned out when I got to his office his office was locked. I believe it was on a Monday.

Q. Yes.

A. And there was nobody there and somebody in the building called him at home and Dr. Bunt, you know, I talked to him and there had been a mix-up and he saw me that day at his house.

Q. All right. So he was good enough to say "Come on out to the house"?



F.7

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A. Right.

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Q He had the report?

4

A. Yes.

5

Q Right. And out you go to his house?

6

A. Yes.

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Q You meet him and you get the report. What is the nature of the discussions there?

9

A. He doesn't know why she died.

10

Q That is the net effect?

11

A. That is the bottom line.

12

Q How long is the conversation with Dr. Bunt?

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A. I would say forty-five minutes to an hour.

15

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Q All right. How does that leave you?

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A. Floored. He was very nice. He went through a lot of things with me that sometimes this happens, you know, people with heart problems, they die and they don't know why and whatnot. I left there feeling somewhat like the end of the line, sort of thing.

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Q All right. Again, his manner you felt -- you had no difficulties in dealing with him?

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A. No, not at all. I was
satisfied with the information he gave me about it.

Q. All right.

A. That they could not come out
with the cause of death.

Q. All right.

A. I felt he had done his job
thoroughly.

Q. So in a sense here the focus of
everything had changed. You were sure that you would
have an autopsy and it would tell you what the cause
of death and where the fault lay?

A. Yes.

Q. Now, you have come down and you
have been half right, they can't find the cause of
death, but obviously you have come to conclusions
whether you need that lawyer or not?

A. Well, I can't call the lawyer
saying, "Well, they don't know why she died and they
did an autopsy". I couldn't do anything more, so I
called the lawyer and cancelled my appointment.

Q. Any discussion come up then in
that meeting when you get the final autopsy report,
any discussion come up with Dr. Bunt about "By the
way, did you follow up with my suggestion about
digoxin drug"?



F.9

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A. No, I didn't. I didn't want to tell the man how to do his job. Like I say, I assumed that somewhere -- since I had mentioned it in his office I also assumed that there was some sort of Ontario law that it would be checked if the person was on a lethal drug and died under unusual circumstances. I didn't want to ask him again and imply that he had not done his job. I felt confident that he had done his job.

Q. When he said to you they just couldn't find the cause of death was it implicit in that that all of those other tests that they might have done, toxicology tests, you felt had all come back negative?

A. Yes.

Q. Did you understand, as well, that the surgery she had had on her second attendance had been successful and the job done properly?

A. Yes.

Q. So you are obviously still perplexed?

A. Yes, but I decide then that I have got to come to terms with it, you know.

Q. Before you leave do you pop up to the Hospital?



F.10

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2

A. Yes, I do.

3

Q. Who did you see?

4

A. Dr. Freedman.

5

Q. Would that be Dr. Freedom?

6

A. Freedom? It might be, a big jolly man.

7

8

9

Q. That is Dr. Freedom. You go up there and you speak to Dr. Freedom. I take it you went there with the purpose of meeting another doctor?

10

11

A. Yes, I actually wanted to see Dr. Olley.

12

13

Q. Why did you want to see Dr. Olley?

14

15

A. I actually wanted to apologize to him for upsetting him that day.

16

17

Q. And for perhaps you might say the insinuations that were obviously --

18

19

20

A. Yes, that the Hospital had made an error. I didn't want to leave it with the way we left it that particular day that she had died. I wanted to apologize if I had hurt his feelings or upset him.

21

22

Q. He is not there, but you meet Dr. Freedom?

23

24

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A. Yes.



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Q You know Dr. Freedom is one of
his colleagues?

A Yes.

Q And through some discussion
with Dr. Freedom you asked him to convey your --

A Yes, I asked him to apologize
to Dr. Olley for me.

Q After that you go home. Would
that be about October or November of 1980?

A This is November, yes.

Q You go home then and I guess
you have taken the position that you are wrong and
that you are just going to have to live with your
child's death?

A Yes.

Q All right. What is the next --

THE COMMISSIONER: I am sorry, there
was a little hesitation?

THE WITNESS: No.

THE COMMISSIONER: All right.

MR. SHANAHAN: Q You put the matter
behind you in terms of forgetting it, but have you
put this search for the cause of Amber's death behind
you?

A Yes, I felt I had done everything



F.12

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2

that I could do. I had an outside coroner conducted.

3

I felt that if something was going to be turned up

4

it would have been at that time and I decided that

5

I have got to get on with my life.

6

Q. And your chief concern, relating
it back to the incident you had had, your chief
concern about digoxin has been brought up?

8

A. Yes.

9

Q. All right. Now, what happens
next, what is the next incident in this chain of
events that gets you asking questions again?

10

11

12

A. In March Susan Nelles is
charged. I don't rush right out and buy a newspaper
because, you know, in Sudbury when you hear news
it is like a nurse at Sick Children's has been
charged, it doesn't say what for or anything, but
then as the news gets bigger you start to go out and
buy a newspaper sort of thing, so I bought a
newspaper and I saw the picture. "Oh yes, I remember
her." Over the next two or three days -- she has
now been charged with four of them and I am starting
to think about this, yes, she was on, she was with
me that morning, I don't need to worry about this,
he tested her for digoxin. It goes through my mind
for a couple of more days and I thought well, maybe

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F.13

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I will just reassure myself and I called Dr. Bunt.

3

Q. You phoned down to Toronto to

4

Dr. Bunt?

5

A. Yes.

6

Q. You introduced yourself all

over again and asked if he remembers you?

7

A. Oh, yes.

8

Q. And he does?

9

A. Oh, yes.

10

Q. What is the nature of the

11

conversation?

12

A. I asked him, I said: "Did you

13

check for the digoxin?" and he told me, no, he

14

didn't.

15

Q. What does he say to you about

16

his feeling about it now that Susan Nelles had been

17

A. I don't recall his words to me.

18

Like when he said he hadn't checked for digoxin I

19

think I went into a bit of a state of shock and then

20

I recall him saying something about hindsight. I

21

don't remember the sentence, but it was more or less,

22

it seemed to indicate to me that he was sorry that

23

Q. And the conversation ends.

24

25



F.14

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2

Does he tell you what he will then do?

3

A. He told me that as soon as

4

Susan Nelles was charged that he remembered Amber's

5

case and he had already been in touch with Homicide.

6

Q. Did he advise you who, in fact,

7

might then contact you in the future?

8

A. Yes, he said the Homicide would

be in touch with me.

9

Q. You were out of town and you

10

certainly didn't expect the police to be beating down

11

the door, but, in fact, Sergeant Warr and Sergeant

12

Press did contact you by telephone?

13

A. Yes.

14

Q. And you spoke to them?

15

A. Yes.

16

Q. And they assisted you and gave

17

you all the information that they had at their

18

A. Yes.

19

Q. Although your dealings with

20

them were brief they were always frank and open with

21

you?

22

Q. And what then is the next thing

23

that arises in terms of this sequence of events? Do

24

you hear any evidence coming out from the preliminary

25



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hearing? We know there was a publication ban. By the bye were you aware of any evidence being led there about your child?

A. Yes, from the police. I think it was the police who informed me that, you know, Amber's name had been brought up at the preliminary hearings; yes.

Q. Amber, you knew was not exhumed?

A. No, they asked me and I said yes, please take her body and test for whatever. I was more than willing, but they never did.

Q. It just never came about?

A. No.

Q. It wasn't a suggestion they didn't follow up on something, it was just something that never came to fruition?

A. That is right.

Q. You knew they had been able to locate some reserve tissue of Amber in this situation?

A. Yes.

Q. So she really wasn't on the same footing as babies who had never had an autopsy?

A. That is right.

Q. And you understood them to be working from the reserve tissue?



F.16

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2

A. Yes.

3

Q. All right. After your child

4

died I think the nurses at Sick Children's communicated
with you, did they not?

5

6

A. Yes. Shortly after I went back

7

home after the funeral they sent me up a nice bouquet
of flowers.

8

Q. Did you respond to this?

9

A. Yes, I did.

10

Q. What did you do?

11

A. I wrote them a thank you note

12

and I thanked them for the care that they had given
Amber.

13

14

Q. In fact, did you do that to

15

every institution that Amber had been in, Laurentian
Hospital, Plummer's Memorial?

16

A. Not the Plummer, because it

17

was some months previous, but the Laurentian

18

Hospital, the infant stimulation that had helped

19

Amber, anybody who had been involved with Amber, you

20

know, within recent months I wrote and thanked for
their care and concern.

21

Q. So you wrote and was this

22

letter addressed to anybody in particular or just the

23

staff on 4A?

24

25



F.17

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2

A. The staff.

3

4

Q. You knew that many shifts of
nurses through the long night and the long day had
dealt with her over the months?

5

6

A. Yes.

7

Q. And you wrote to them?

8

A. Yes.

9

Q. And complimented them on what
you then perceived to have been their care?

10

A. Yes.

11

Q. Anything else you want to add,
Mrs. Dawson?

12

13

A. Not that I can think of.

14

MR. SHANAHAN: My colleagues may have
some questions.

15

16

THE COMMISSIONER: I think we might
rise now for 20 minutes.

17

--- Short recess.

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--Upon resuming.

THE COMMISSIONER: I don't know whether anybody has given any thoughts to the order, but traditionally - and traditionally this takes me all the way back to Mississauga - I called on Commission Counsel first and then the others in normal order, then on Commission Counsel, then on Mr. Shanahan. That is the tradition. But if anyone has any --

Yes, sir.

MR. FISCHER: Mr. Commissioner, I wonder if I might address the matter of the argument originally scheduled for Wednesday?

THE COMMISSIONER: Yes.

MR. FISCHER: Mr. Sopinka will be unavailable on that day and he has asked me --

THE COMMISSIONER: I wonder if you would like to check with him again before you say that. Because I happened to sit next to his current mentor and he said there would be no difficulty on Wednesday at all. So would you check that again?

MR. FISCHER: I was told this morning that there would be difficulty.

THE COMMISSIONER: That is because he had not spoken to his current mentor; that is all. This is unfortunate that this sort of thing happens, but



1
G2 2 perhaps I should have warned you. Try it again.

3 MR. FISCHER: Perhaps I can discuss
4 it with him during the lunch break.

5 THE COMMISSIONER: Yes. Discuss it
6 with him because I think he will be all set to go
7 on Wednesday.

8 MR. FISCHER: Okay, terrific.

9 THE COMMISSIONER: Yes. Thank you.

10 Now, Mr. Lamek, with that introduction
11 have you any questions?

12 MR. LAMEK: Mr. Commissioner, I don't
13 think I have any questions at this time. Thanks.

14 THE COMMISSIONER: All right.

15 Now that places you in an unfortunate --
16 because this brings you -- I'm sorry, I'm looking at
17 this thing -- Mr. Fischer, is it?

18 MR. FISCHER: Yes.

19 THE COMMISSIONER: In the ordinary
20 course you are next.

21 MR. FISCHER: Yes, I realize that, but
22 I will have no questions to ask.

23 THE COMMISSIONER: This is an old
24 tradition around here too. All right. If you have
25 no questions, that solves that problem.

Miss Rae, is it?



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MS. RAE: Yes. I have no questions,

3

Mr. Commissioner.

4

THE COMMISSIONER: Miss Cecchetto?

5

MS. CECCHETTO: I have a few questions.

6

THE COMMISSIONER: Yes. All right.

CROSS-EXAMINATION BY MISS CECCHETTO:

7

Q. Mrs. Dawson, my name is Lucy

8

Cecchetto, and I appear on behalf of the Attorney

9

General, the Coroner's Office and the Crown, and I

10

have very few questions for you.

11

Perhaps if the witness could have

12

the medical chart of Amber Dawson, please.

13

THE COMMISSIONER: Yes.

14

MS. CECCHETTO: Q. Mrs. Dawson, you

15

indicated you were with Amber the night before she
died and she seemed to be well to you?

16

A. Yes.

17

Q. Do you remember what time you

18

were with her until?

19

A. I believe I left the Hospital

20

around 6:30.

21

Q. 6:30?

22

A. Yes.

23

Q. Now, if you would look at page

24

87 of the chart, that indicates that she was on

25



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digoxin therapy and that it appears that she was
scheduled to receive digoxin at 9:00 in the morning
and at 9:00 at night.

A. Yes.

Q. Were you there for the first
dose?

A. I don't recall.

Q. In any event, you indicated that
she was well when you left, and you obviously were
very surprised and distressed to learn the next
morning that she had died. You indicated also that
you had spoken to Dr. Olley and you were very upset.

A. Yes.

Q. And you insisted that there be
an outside Coroner brought in?

A. Yes.

Q. And you then spoke to Dr. Bunt?

A. Yes.

Q. And you spoke to him the same
day, I understand?

A. Yes.

Q. And you were still very upset?

A. I wouldn't say I was -- I was
upset, of course; your child dies, you are upset, but
I found I was quite rational.



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Q. I am not suggesting you were irrational, Mrs. Dawson, and I understand that you would be very upset. What time would this meeting have taken place with Dr. Bunt?

A. It was late in the afternoon, I would say some time between 2:00 and 4:00.

Q. And you outlined your concerns to him?

A. Yes, I did.

Q. And was it a long meeting?

A. I would say roughly 45 minutes to an hour I was in his office.

Q. And you indicated that he seemed to be very caring and very understanding?

A. Yes.

Q. Now, you were not making any notes at that meeting?

A. No.

Q. Nor was your sister?

A. No.

MR. SHANAHAN: Are we talking now about the meeting with Dr. Olley or with Dr. Bunt?

MS. CECCHETTO: With Dr. Bunt.

A. Yes.

Q. And Mrs. Dawson, I have not



1

G6 2 spoken to Dr. Bunt but we have checked with Dr. Bunt
3 and he doesn't recall digoxin ever being mentioned in
4 that meeting. He can't recall it ever being mentioned.

5

A. I recall it distinctly, of
6 saying those exact words.

6

7

Q. The first time he recalls it
7 being mentioned is later on.

8

9

10

11

12

In any event, in your recollection of
9 mentioning it, if I remember your evidence correctly -
10 and I'm sorry, we don't have the transcript - you
11 did indicate, you said words to the effect: "I don't
12 want..."

13

14

A. "I don't want to find out my
13 child died of an overdose of digoxin."

15

16

17

18

Q. And would you have mentioned it
15 on more than one occasion in that meeting?

22

23

24

25

A. No. I told him of my suspicions.
17 I did not mention the word "digoxin" more than that
18 one time.

19

20

21

Q. Now, in your subsequent meeting
19 with him, when you discussed the matter with him
20 again, did he seem to be very concerned and very
21 caring?

22

23

24

25

A. Yes.

Q. And he gave you a full interview



1

G7 2 and discussed any matters that arose?

3

A. He went through the full
autopsy with me, yes.

4

5

MS. CECCHETTO: Thank you. I have
no further questions.

6

THE COMMISSIONER: Thank you.

7

Mr. Young?

8

MR. YOUNG: No questions.

9

THE COMMISSIONER: Mr. Roland?

10

MR. ROLAND: The only question that

11

occurred to me, Mrs. Dawson, is how you ever came

12

upon Mr. Shanahan, but I don't think I will ask that!

13

MR. SHANAHAN: I was warned in advance
of that question!

14

THE COMMISSIONER: Miss Chown?

15

MS. CHOWN: No questions.

16

THE COMMISSIONER: Miss McIntyre?

17

MS. MCINTYRE: No questions.

18

THE COMMISSIONER: Mr. Olah?

19

MR. OLAH: No questions.

20

THE COMMISSIONER: Mr. Labow?

21

MR. LABOW: No questions, Mr. Commissioner.

22

THE COMMISSIONER: Mr. Tobias?

23

MR. TOBIAS: No questions, Mr.
Commissioner.

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THE COMMISSIONER: Well, you haven't much to work on, Mr. Lamek. Have you anything that may have arisen from that?

MR. LAMEK: Just one thing, Mr. Commissioner, if I may. I want to see Exhibit 124, which is the real reason for the delay.

EXAMINATION BY MR. LAMEK:

Q. Mrs. Dawson, as I understood you, when you spoke to Dr. Bunt after the autopsy report was available, he told you at that time that the autopsy disclosed an abscess on the diaphragm of Amber?

A. Yes.

Q. Did you understand at that time that the autopsy had in fact been performed at The Hospital for Sick Children?

A. Yes.

Q. By a Hospital pathologist?

A. Yes. He explained to me why he did that.

Q. He told you that in fact it was at that Hospital, because it was expertise, that infant autopsies were performed under the auspices of the Coroner?

A. Yes.



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Q. And you were satisfied with

3

that, I take it?

4

A. It struck me as a little odd

5

at the time. He went on to explain that they were
specialists with infants with heart problems and he

6

thought that it would be where he would get the

7

fullest report and that since -- and I was satisfied

8

in my own mind he was an outside Coroner conducting

9

it and it must be okay.

10

Q. You were satisfied that his

11

overseeing of the thing --

12

A. Yes.

13

Q. -- gave you a measure of

independence that you were looking for?

14

A. Yes. I think if he had told me

15

that particular day that I was in his office that he

16

was going to have somebody from The Hospital for

17

Sick Children do it, I probably would have said, no,

18

at that time. But once it was done, I mean, what

19

could I do? I had to be satisfied with it.

20

Q. Did you see the final, actual

autopsy report when you spoke to Dr. Bunt?

21

A. Yes.

22

Q. Do you have the chart there,

23

Mrs. Dawson?

24

25



G10

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A. Yes.

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Q. If you would look at page 63, you will find I think the last page - not the last page, a page of the autopsy report, it is there in its entirety but I am interested in what appears on page 63.

A. Yes.

Q. You see at the top of the page:

"Microscopic and laboratory findings in brief: lungs: heart: stomach: sections through the area of perforation..."

A. Yes.

Q. Did you understand that there had been an area of Amber's stomach which showed some perforation, tearing?

A. Yes.

Q. Back on page 61 also, is it not? "Gastro-Intestinal System. esophagus, no abnormality. The stomach is contracted. The lateral aspect of the cardia-stomach and contents shows a 1 x 1.5 cm. area of recent perforation."

A. Yes.



1

G11 2

Q. Do you understand that he was referring to the abscess that you were told about?

3

4

A. I don't really understand that. What I understood was that the final autopsy, when Dr. Bunt was telling me they didn't come up with the cause of death and anything -- that was the bottom line for me sort of thing, and anything else other than the heart repair was very successful really didn't mean too much to me.

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Q. Okay. So where they were talking about a perforation of the stomach or an abscess of the diaphragm, in either event, it appeared to you that Dr. Bunt did not regard either of those as being the cause of death?

14

15

A. No.

16

17

18

Q. Although the paralysis of the diaphragm he considered to have been a contributing factor - that appears on page 63 of the report, does it not, under the heading:

19

20

21

22

"Cause of death: The immediate anatomical cause of death not determined (contributing factors: congenital heart disease, right hemidiaphragm paralysis)."

23

24

25

A. Right.



G12

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Q. Did Dr. Bunt tell you that he considered those to be contributing factors, although he could not isolate the particular cause of death?

A. I don't recall him saying that, no.

Q. If indeed he had looked at the report, he would have seen those things, I take it?

A. Yes.

Q. Did you ask Dr. Bunt how the congenital heart disease could have been a contributing factor to Amber's death?

A. I believe that was explained by, sometimes these children die.

Q. Was it not then your understanding that Amber had had successful surgery to resolve her congenital heart problem?

A. Yes.

Q. But you accepted the explanation that there was nevertheless perhaps some involvement of the heart disease in the death?

A. I came to the conclusion they did not have a cause of death; they could not say that the heart disease killed her or that the paralysis killed her. They may have contributed to the death but it was not in itself a cause of death.



1
G13 2 Q. And with that you were satisfied,
3 assuming, as you did, that all proper enquiries had
4 been made in the course of the autopsy, that there was
5 nothing more for you to learn or know about the cause
6 of death?

7 A. There was nothing more I could
8 do to alleviate my suspicions, you know. I had done
9 everything I could. I had an outside Coroner; he had
10 done an autopsy; where was there to go?

11 MR. LAMEK: Thanks, Mrs. Dawson.

12 THE COMMISSIONER: Mr. Shanahan?

13 MR. SHANAHAN: I have no further
14 questions.

15 THE COMMISSIONER: Thank you very
16 much for coming, Mrs. Dawson. Thank you. You have
17 been helpful.

18 --- witness withdraws.

19 MR. SHANAHAN: Mr. Commissioner, I
20 have as well Mr. and Mrs. Lombardo, one of whom will
21 be testifying, and I am quite prepared to do that now.
22 My friend, Mr. Tobias, allowed me the indulgence of
23 calling Mrs. Dawson first on the basis that she was
24 from out of town and will return. I think we are back
25 to our normal order, and I think Mr. Tobias wishes to
call the witness he has.



G14

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THE COMMISSIONER: Yes. All right.

3

Mr. Tobias.

4

MR. TOBIAS: Yes, Mr. Commissioner.

5

The next witness is June Hines, mother of Baby Jordan Hines.

6

7

Mrs. Hines, could you please step forward.

8

JUNE HINES, Sworn

9

DIRECT EXAMINATION BY MR. TOBIAS:

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11

12

Q. Mrs. Hines, this is somewhat of an event. You are probably the first witness I have examined that I haven't had to introduce myself to.

13

14

15

I understand that you reside in the Metropolitan Toronto area and that you are the mother of three children.

16

A. I am.

17

18

Q. I understand you have two sons and a daughter?

19

A. I do.

20

Q. How old is your older son?

21

A. He will be eight next week.

22

Q. And your next, your younger son?

23

A. He is six next month.

24

Q. And your little girl, how old is

25



G15 2 she?

1

3

A. She has just turned two.

4

5

Q. I understand that she was born
in February of 1982?

6

A. That's right, yes.

7

8

Q. And generally with respect to
all three of the children, what is the state of their
health?

9

10

A. They are very healthy. My
oldest boy does have a kidney problem.

11

12

Q. Could you tell us a little bit
about that problem?

13

14

A. It is called necrotic syndrome
and he contracted it when he was eighteen months old.

15

THE COMMISSIONER: I'm sorry, I missed
that. What was that?

16

THE WITNESS: Necrotic syndrome.

17

18

MR. TOBIAS: Q. Could you perhaps
assist the Commissioner by telling us what is necrotic
syndrome?

19

20

21

22

A. It is -- the kidneys from time to
time do not work properly; they really don't know why
this happens. He is treated as an out-patient at The
Hospital for Sick Children.

23

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THE COMMISSIONER: This is your oldest?



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G16

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THE WITNESS: Yes.

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MR. TOBIAS: Q. Is your elder son treated on a regular basis for this on, on a continuing regular basis?

A. Yes. He takes medication regularly and he visits the Hospital about every three months for a check-up.

Q. He is still being treated at The Hospital for Sick Children?

A. Yes, he is.

Q. You are satisfied with the care that he is getting?

A. Yes, I am.

Q. No problem taking your child there?

A. No, none at all.

Q. You are confident in the ability of that institution to render health care to your elder son?

A. Yes.

Q. And other than that particular problem, are there any other problems with respect to your eldest boy?

A. No.

Q. The other two children, are they



1

G17 2 in fairly good health?

3

A. Yes.

4

Q. I would like to ask you, first
5 of all, with respect to your eldest. Was there any-
6 thing unusual or anything out of the ordinary with
7 respect to that first pregnancy?

7

A. None at all.

8

9

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Q. Relative to the due date that
was expected, when did you deliver?

3

H/BM/LN

4

A. A week before.

1

5

Q. All right. And what was his
weight at birth?

6

A. 9 pounds, 8 ounces.

7

8

Q. I see. What kind of a baby was
he?

9

A. Very robust.

10

11

Q. Very robust, nice size, fairly
healthy.

12

A. Yes.

13

Q. And was there any extended
period of hospitalization with respect to that baby?

14

A. No, just the usual, normal stay.

15

16

Q. Okay, fine. And with respect
to your youngest son relative to the due date, when
did you deliver?

17

18

A. He was delivered two weeks before
his due date.

19

20

Q. All right. And do you recall
what his weight was at birth?

21

A. He was 8 pounds, 9 ounces.

22

23

Q. All right. Did he require any
special extended period of hospitalization?

24

25



H2

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2

A. No.

3

Q. Any special treatment?

4

A. No.

5

Q. All right. And your daughter?

6

A. She was two weeks before her
due date, as well.

7

8

Q. Okay, and what did she weight
at birth?

9

10

A. She weighed 8 pounds, 2
ounces.

11

12

Q. Again a fairly good size for a
little girl I take it. Was there any special treatment
that she required, any extended stay in the hospital?

13

14

A. No.

15

Q. So with respect to all three
children, you were a little bit early?

16

A. Yes.

17

18

Q. That was basically the only thing
that was in any way unusual?

19

A. That's right, yes.

20

21

Q. Now, were there any problems in
particular with respect to your pregnancy with your
son Jordan?

22

23

A. No problems, no. I did contract
pneumonia in the last month of my pregnancy.

24

25



H3

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Q. All right. And who was treating
you at that time?

4

5

A. My family doctor, Dr. Dworak.

6

Q. All right. And how did he treat
the pneumonia?

7

8

A. With an antibiotic, erythromycin,
I believe.

9

10

Q. All right. And I understand
at that time you would have been in your last month
of pregnancy?

11

12

A. Yes, this was around January
that I contracted the pneumonia.

13

14

Q. Did you have discussions with
Dr. Dworak regarding the taking of that antibiotic
in your last month of pregnancy?

15

16

A. Oh, yes, I was very concerned
because it was so close.

17

18

Q. And what advice were you given,
if any?

19

20

A. He said that the antibiotic
would not penetrate the uterus and the baby would be
very safe.

21

22

23

Q. Okay. And I understand that
Jordan was born on February 16th, 1981, at North York

24

25



H4

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General Hospital?

A. That's right.

Q. He was delivered by Dr. Dworak?

A. Yes.

Q. And Dr. Dworak I understand,
had been your obstetrician throughout?

A. That's right, yes.

Q. All right. During the pregnancy
with Jordan were you smoking cigarettes or drinking?

A. No, I didn't smoke cigarettes;
in fact I don't smoke cigarettes now. I occasionally
had a glass of wine I guess.

Q. Well, I think we are all entitled
to that.

A. Nothing in excess anyway.

Q. And other than the erythromycin
which you took were there any other drugs you were
required to take during that pregnancy?

A. No.

Q. How was the state of your health?
You have told us that you contracted viral pneumonia,
how was the state of your health at the time that
you actually delivered?

A. I think I was pretty much
recovered from the pneumonia, yes. I didn't really



1

2

have any effects from it.

3

4

Q. Now, could you tell us again
relative to what your due date was calculated to be
when you delivered Jordan Hines?

5

6

A. It was three weeks before my
due date.

7

8

Q. Okay. So, as in all of the
other children there was ---

9

10

A. It was not really a surprise, no.

11

Q. Okay, fine. And do you recall
what Jordan's birth weight was at birth?

12

13

A. He was 8 pounds, 9 ounces
as well.

14

15

Q. Okay. And did he require any
extended stay in the hospital or any special treatment
upon birth?

16

17

A. No, I think we stayed five days
which is the normal.

18

19

Q. All right. You would have been
discharged home from the North York General on or
about February 21st, of 1981?

20

21

A. It was the Saturday, yes.

22

23

Q. And who if anyone examined Jordan
at the North York General Hospital? Did you have a
paediatrician come in to look at him?

24

25

H5



H6

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A. Dr. Dworak did the examination.

3

Q. So, he was your doctor throughout

4

the pregnancy and delivered the child?

5

A. Yes, and the baby's doctor.

6

Q. And the child after birth was in

7

Dr. Dworak's care?

8

A. Yes.

9

Q. Any problems noted, anything

10

unusual?

11

A. No, no. He had jaundice when

12

we left the Hospital but that is quite common in new
borns.

13

Q. And by the time he was discharged

14

home had that problem been resolved?

15

A. No, he still had jaundice, he was

16

still quite yellow.

17

Q. And once you did go home did

18

the problem eventually resolve itself?

19

A. Oh, yes, within a few days.

20

Q. Okay, fine. Now, could you

21

describe for us when you first got Jordan home basically
what your observations of him were, what type of baby
was he?

22

A. He was perfectly normal, just like

23

the other two boys had been. He was very content, he

24

25



1

2

would sleep a lot, as new borns do and he fed quite well.

3

4

Q. I understand Jordan was bottle fed?

5

A. Yes, he was.

6

Q. And he was feeding normally, you were satisfied with his intake?

7

A. Yes.

8

Q. Was he an alert baby, a lethargic baby, how would you describe him?

9

10

A. He was alert, very alert when he was awake, certainly. He slept a lot but then new borns do.

11

12

13

Q. All right. Now, once you got home and during the course immediately following your return home with the baby, was there anything at all that you noted about the baby that was in any way unusual or that alarmed you?

14

15

16

17

A. No.

18

Q. Okay. I understand that something did occur on the early morning of Wednesday, March 4th, 1981. Perhaps you could just tell us about that?

19

20

21

A. Yes. We had Jordan in the bassinet beside our bed and I was awoken by him coughing or more or less choking I guess and I got up immediately and turned the light on, went to the baby and picked

22

23

24

25

H7



H8 1
2 him up straight away and it was almost as if he had
3 maybe regurgitated on some of his formula or something
4 and was trying to clear his throat and I patted his
5 back and he went back to sleep.

6 Q. Did you observe his colour at
7 that time?

8 A. Yes, his colour was normal.

9 Q. Okay, fine.

10 THE COMMISSIONER: I'm sorry, his
11 colour was normal?

12 THE WITNESS: His colour was normal,
13 yes.

14 MR. TOBIAS: Q. Did you observe his
15 breathing pattern during this incident?

16 A. He must have been breathing
17 normally or else I would have noticed it if he
18 hadn't been I guess.

19 Q. You don't recall in any event
20 any difficulty in breathing, shallow respirations or
21 anything like that?

22 A. No.

23 Q. I take it you then settled the
24 baby?

25 A. Yes.

Q. Put the baby back down?



1

2

A. Yes.

3

Q. Did he sleep throughout the rest

4

of that night?

5

A. I would have fed him at his

6

6:00 o'clock feeding that morning.

7

Q. Do you in fact have a specific

8

recollection of the 6:00 o'clock feeding that day?

9

A. I can't say as I have a specific

10

recollection, no.

11

Q. In any event, were there any

12

further problems that morning?

A. No.

13

Q. Okay, fine. What, if anything,

14

Mrs. Hines did that incident lead you to do?

15

A. Well, I was a little concerned

16

because my second son had just gotten over pneumonia

17

himself and I was aware that there was obviously

18

a virus in the house because I had had the pneumonia

19

and with him having this choking fit I thought I

20

would get him checked out by the doctor just to make

21

sure that he was okay. So, I phoned for an appointment

22

that morning and I went to see Dr. Dworak on the

23

Wednesday morning.

Q. And did he examine the baby on

24

the Wednesday morning?

25

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A. Yes, he did.

Q. I believe we are still at that time on Wednesday, March 4th?

A. That's right, yes.

Q. All right, fine. And what happened at the doctor's office, can you tell us?

A. He did a thorough examination, I took all his clothes off and he looked in his ears and his nose and his throat and listened to his chest and pounded his chest the way they do, listened to the lung and felt his abdomen. A perfectly normal infant examination. He weighed him, he had gained weight from the weight that he was when we left the Hospital.

Q. Do you recall what weight Jordan was when he left the Hospital?

A. I think he was around 8 pounds. I know he had lost a few ounces.

Q. From the time of birth?

A. From the time of birth.

Q. And do you recall specifically at the time that Dr. Dworak examined him on Wednesday, March 4th, 1981, what weight he was at that time?

A. Yes, he was 8 pounds, 14.



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H12

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Q. So, as far as the doctor was concerned therefore he had been gaining weight nicely?

A. Yes.

Q. And was developing well?

A. Yes.

Q. Now, was the doctor able to find anything wrong with him?

A. No, he wasn't.

Q. What did you do then?

A. He told me that if I was concerned to just keep an eye on him maybe he was coming down with a cold or something but if I really was concerned he was going to be at Emergency at North York Hospital that afternoon and I could call him there if I had any problems and then I just left feeling quite confident that he was okay.

Q. I take it then you just left, went home and went about your normal daily routine?

A. Yes.

Q. And what did you do with the baby when you got home? Did he go back to sleep?

A. Yes, I believe I fed him and then I put him back into the bassinet which was in the family room at that time and I got lunch for the other



1
2 two boys.

H13 3 Q. You would have been I take it then
4 in the kitchen?

5 A. Yes.

6 Q. The baby was in the bassinet in
7 the den?

8 A Which is adjacent to the kitchen,
9 I could see the bassinet from the kitchen.

10 Q So, was it possible for you to
11 keep an eye on the child while you set about getting
12 lunch?

13 A. I constantly kept an eye on him,
14 yes.

15 Q. Okay. And did you notice any
16 problems at that time with the child?

17 A. No, it wasn't until about 1:00
18 o'clock when I noticed there was a problem.

19 Q. All right. Could you tell us
20 what you noticed at 1:00 o'clock?

21 A. I had checked him several times
22 and this one particular time I looked in at him and
23 he had a very dusky colour to his face and I
24 immediately picked him up. When I picked him up I
25 called his name and I lightly shook him and he started
to cry and his colour returned to normal.



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2

Q. Now, when you noticed him

3

turning this dusky grey colour had he been sleeping?

4

A. Yes, he was sleeping.

5

Q. I take it that you reacted fairly

6

quickly?

7

A. Very quickly.

8

Q. So, was there any time for you

9

to observe anything other than the colour in that
instant of time?

10

A. No, I don't think so because I

11

was shocked at seeing his colour.

12

Q. All right. Now, you indicated

13

to us that you picked him up and you lightly shook him
and he then woke up. Was there very much effort

14

required on your part to arouse the baby?

15

A. No, he cried almost immediately.

16

Q. Okay, fine. And upon waking up

17

and crying what happened to his colour?

18

A. It came back to normal. In fact,

19

he was very red, I think he must have been angry.

20

Q. Could you tell us then what you

21

did. I take it you still had the baby in your arms?

22

A. Yes, I kept the baby in my arms.

23

Q. What was the next thing that

24

happened?

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A. I sat down with him in the chair and he drifted back off to sleep and I closely watched his breathing and his breathing became quite shallow and as it became shallow the colour drained from his face again and he went not quite as dusky as he was when I first saw him in the bassinet and I lightly shook him again and I called him and he woke up again.

Q. Okay. Now, how long had passed between the first incident when you lightly shook him and aroused him and when he started to drift back into a sleep and turned colour?

A. Maybe five minutes at the most.

Q. And on this second occasion was there any more effort required than on the first occasion to arouse the baby?

A. No.

Q. Did he respond again immediately?

A. Yes.

Q. All right. Can you tell me what happened once he responded to you in terms of his colouring?

A. His colouring was fine, it was normal.

Q. Now, obviously on this second



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occasion the baby had been in your arms and I take it
that you were closely observing him?

4

A. Yes.

5

6

7

Q. What if anything did you notice
about his breathing pattern. You have told us that
the respirations were shallow. What did you mean by
that, was he having difficulty breathing?

8

9

10

11

12

A. No, he wasn't having difficulty
breathing it was almost as though when he went into
a deep sleep his chest hardly moved, it moved very
very slightly so I knew his breathing was quite
shallow.

13

14

15

Q. Was there any period on that
second time that you noticed yourself on your own
observations any absence of breathing?

16

17

A. No.

18

19

20

21

22

Q. Okay. What did you do about this
second occasion?

A. By this point I was very upset,
I really felt there must be something wrong with him.
I called my husband at work and I said there is
something obviously wrong with the baby. We have to
get him to the doctor.

23

24

25

Q. Yes.

A. I told him that Dr. Dworak was



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in the Emergency that afternoon at North York and he said I will call him and he called him and then he called me back and said we are going to take the baby right over I'll be home as soon as I can.

Q. All right. How long did it take for your husband to arrive home so that you could take the baby to North York General?

A. Half an hour I guess at the most.

Q. All right. And during that half hour what were you doing, were you with Jordan at all times?

A. I didn't let the baby go to sleep, I kept him awake.

Q. You kept him up, okay. And he was in your arms at all times?

A. Yes.

Q. Was there any difficulty breathing during that waiting period of a half an hour?

A. No.

Q. Any shallow respirations noted?

A. No.

Q. Any changes in colour noted?

A. No.

Q. Okay, fine. I take it then your husband arrived home?



H18

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A. Yes.

3

Q. Where were your other children

4

at this time?

5

A. My oldest boy was in junior

6

kindergarten, he had gone off to lunch and my youngest
boy was asleep on the sofa.

7

Q. All right. Did you take both

8

children with you to North York General Hospital?

9

A. Yes, I woke the second one.

10

Q. So, somewhere enroute you

11

picked up your eldest son?

12

A. I picked up the eldest boy, yes.

13

Q. Now, was there anything that

14

happened on the way to the hospital that caused you
any alarm?

15

A. Yes, he again went back into a

16

deep sleep and started to change colour again.

17

Q. All right. Now, was this as

18

bad as the first episode, did his colour get quite
that pale?

19

A. No, I wouldn't let him. I

20

realized that there was a problem so as soon as he
changed his colour I stimulated him to wake up.

21

22

Q. And can you describe for us the

23

type of effort that was required to arouse him that

24

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third time?

A. Just a light shaking really and
calling his name and talking to him to try and keep
him awake.

Q. So, there was no violent agitation
of the baby or shaking him?

A. Oh, no.

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Q. Or any heroics necessary. How long would that have been after these first two occasions, approximately?

A. I guess maybe 45 minutes.

Q. So in any event within the hour there had been three of these occasions where his breathing had become shallow and he would start to turn colour?

A. That is right.

Q. Were there any other periods before you got to the hospital of shallow breathing or changes in colour?

A. Not that I can recall.

Q. Again, I ask you the same question that I asked you previously: at the time the baby changed colour in your arms in the automobile on the way to the hospital, obviously was a time when you were watching him and closely observing him. Did you notice the absence of breathing at that time?

A. No.

Q. So he was breathing throughout?

A. Yes.

Q. But in a shallow fashion?

A. Yes.



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Q What happened when you arrived
at North York General Hospital, Mrs. Hines?

A We took him into Emergency
and Dr. Dvorak was waiting for us and he examined
him thoroughly and he couldn't see anything wrong,
so then he consulted with another doctor, Dr. Fujiwara
and asked him to take a look at him.

Q Dr. Fujiwara, I take it, was
a doctor at North York General Hospital. Was he in
the Emergency Department that day?

A I think Dr. Dvorak had asked
him to come down. He was a paediatrician, so he was
in the hospital at that time, but I don't think he
was actually in the Emergency, no.

Q In any event, he did examine
him in Emergency that afternoon?

A Right.

Q Did you have any discussion
that afternoon with Dr. Dvorak?

A Not really. I think he had
more or less handed it over to Dr. Fujiwara.

Q Did you have any discussion
that afternoon with Dr. Fujiwara after Dr. Fujiwara
had examined the baby?

A Yes. He said that he wanted



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to keep him in for observation. At initial examination he couldn't see anything wrong with the baby. His colour was very good, because he was crying.

5

6

Q All right. You, I take it, that some time that afternoon the baby was admitted for observation?

8

A. Yes.

9

Q Do you recall what time it was?

10

A. I think it was around 5 o'clock.

11

12

13

14

15

Q Now, I would take it that you had arrived at North York General, because you gave me the time estimate of how much later that third period of loss of colour had occurred. I take it you would have arrived at the hospital some time around 2 o'clock?

16

A. Yes.

17

18

19

Q In those approximately four hours in the afternoon were you at all times with the baby?

20

A. Yes.

21

Q Were there any more blue spells?

22

A. No.

23

Q Okay. Were there any more episodes of shallow breathing that you can recall?

24

25



I.4

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2

A. No.

3

Q. So that once you had arrived

4

at the hospital the baby appeared to you to be normal?

5

A. Yes.

6

Q. Was he sleeping at any time

7

during those four hours?

8

A. Yes, he did drop off to sleep,

9

but I was constantly rocking him so he wasn't in a
deep sleep.

10

Q. When he was sleeping there were

11

no returns of the change of colour?

12

A. No.

13

Q. All right. What happened then

14

after he was admitted to the floor, do you recall?

15

A. They said they would keep him

16

on constant care. He would be put on a monitor, I

17

believe, and they would take X-rays, chest X-rays

and do other tests.

18

Q. All right. You mentioned a

19

monitor. What kind of monitor was the baby hooked up

20

to when he was admitted to the floor?

21

A. A heart monitor.

22

Q. All right. Can you describe

23

for me the way that heart monitor worked?

24

A. It had a digital reading.

25



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Q. So that the numbers actually appeared on the screen?

A. Yes.

Q. Wasn't trying to read a graph or anything of that sort. Did you ask, did you make any inquiries at that time as to why the baby was hooked up to a cardiac monitor?

A. Actually -- I didn't see the baby hooked up on the Wednesday. It was Thursday when I went in that he was actually hooked up to the monitor.

Q. Okay, fine. I take it that shortly after he was admitted to the floor you would have been gone home?

A. Yes.

Q. When was the next time that you had any contact with people at North York General?

A. As soon as I arrived home I called.

Q. Do you recall what you were advised?

A. They had said that he had had another blue spell, a dusky spell.

Q. Yes.

A. And when he was stimulated his



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heart rate would speed up and his breathing would
become normal again.

4

Q Do you recall being told at
that time that his heart rate would speed up?

5

6

A. Yes.

7

Q Did you have some knowledge at
that time that the heart rate was irregular?

8

A. Yes.

9

10

Q Okay. Perhaps you can go back
just for a moment. When were you first fixed with
that knowledge, how did you find out there was
anything irregular about the heart rate? Do you
recall who told you that?

11

12

13

14

A. I can't recall who actually
told us; no.

15

16

17

18

Q In any event, during the
evening of Wednesday, March 4th, 1981 when you
returned home, you were aware that he was being
watched in terms of heart rate?

19

A. Right.

20

Q Fine. What was the next thing
that happened?

21

22

A. I called again before we went
to bed that night to check on him.

23

24

25

Q Who did you speak to?



I.7

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A. The nurse.

3

4

Q. I take it you just called the
nursing station?

5

6

A. No, I asked to speak to Jordan's
nurse.

7

8

Q. So you spoke to the nurse who
was actually assigned to Jordan that night?

9

10

A. Yes.
Q. What, if anything, did she tell
you about the baby?

11

12

13

A. She said that he had had a
couple of more of the dusky spells, but he came
around as soon as he was stimulated.

14

15

Q. Did you ask her what she meant
by "as soon as he was stimulated"?

16

17

18

A. No.
Q. Anything else that night?
A. No. I said I would be in the
next day.

19

20

21

22

Q. At that time you had talked
to Dr. Dvorak and Dr. Dvorak had seen the child and
you had talked to Dr. Fujiwara. I take it you went
back to the hospital the next day. That would have
been Thursday, March 6th?

23

24

25

A. Yes.



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Q And can you tell me about
when you arrived?

4

5

A It would have been around
1 o'clock in the afternoon.

6

7

Q What did you observe at that
time regarding the baby's condition?

8

9

10

A He was sleeping. He was
hooked up to a monitor. I think that was the first
time I had seen him actually hooked up to a heart
monitor.

11

12

13

Q All right.

14

15

16

A And there was a nurse sitting
by his crib constantly watching the reading on the
monitor. On Jordan.

17

18

19

Q Did you have any knowledge of
whether or not Jordan was on constant nursing care
at that time?

21

22

23

24

25

A Yes, because we were told
before that he would be observed for 24 hours on
constant care.

Q You would have been told that
on a Wednesday?

A Yes.

Q Fine. You say when you got
there at 1 o'clock on the Thursday he was now hooked



I.9

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up to the cardiac monitor and there was a nurse at his side. What conversation did you have with the nurse about his condition?

4

5

A. I asked her how he was and she said he wasn't feeling particularly well; he couldn't keep his formula down; they were just giving him sugar water. She said that when his heart rate goes down, which was the indication on the monitor, she would stimulate by tickling his feet and it was almost as though it would start to go up again.

8

9

10

11

Q. This is something she described to you?

12

13

A. Yes.

14

Q. At that point you hadn't actually observed this happening?

15

A. No.

16

17

Q. Did you at some time later that night?

18

19

A. Yes, it did happen a couple of times.

20

Q. Can you tell us what you observed on those occasions?

21

22

A. The heart rate I believe went to about 60.

23

24

25

Q. Yes.



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A. As it was going down she was saying "Come on, Jordan, wake up", and just gently tickle his feet and try to wake him up. I didn't notice his colour change at that point though.

Q. When she stimulated the baby that way what would happen to the heart rate?

A. It would go back up again.

Q. You say you didn't notice during those what we refer to as bradycardic spells, you didn't notice any change in colour?

A. No, I didn't.

Q. Did you observe on that day, on the Thursday, any periods where the baby wasn't breathing?

A. No.

Q. Did you observe any periods on that day, the Thursday, when the baby was having very laboured or shallow respirations?

A. The shallow respiration went along with the low heart rate.

Q. So that was a phenomenon that you saw occurring together?

A. Yes.

Q. All right, fine. What were you told on the Thursday about who else would be seeing



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Jordan, what medical people would be examining him?

A. Yes. They told me -- he had had certain chest X-rays and they were all normal and Dr. -- I can't remember her name -- came in while I was there. She was a neurologist. She said to me: "You seem to have a very healthy little boy here. Maybe we can find out why he is having these irregular heartbeats."

Q. May I suggest to you, does the name Dr. Curtis sound familiar?

A. It could have been. She was an English lady.

Q. So you knew that he had been seen by a neurologist?

A. Yes.

Q. What else were you told that day about who had been examining the baby?

A. That he would also be seen by Dr. Sham, who is a cardiologist.

Q. All right. Do you remember who told you that?

A. The nurse that was looking after him.

Q. Was that shortly after you arrived?



I.12

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A. Yes. I said to her that I
would wait until Dr. Sham came.

4

Q. So at that time you knew that
there was some suspicion or some need to investigate
the cardiac status?

6

A. Yes.

7

8

Q. That is why it made sense to
you that he was on the monitor and you had actually
seen the periods of slow heartbeat?

9

10

A. Yes.

11

Q. Did you speak to Dr. Sham that
afternoon?

12

13

A. No, I didn't. I waited until
supper hour. I guess it was around 6 o'clock and I
decided I had left my other children with somebody
and I had to get home to them, so the nurse couldn't
tell me when Dr. Sham would be there for sure and I
asked her to have him give me a call as soon as he
had examined Jordan.

14

15

16

17

18

19

Q. Did you ultimately receive a
telephone call from Dr. Sham?

20

21

A. Yes.

22

Q. Tell me when that was?

23

A. It was around a quarter to ten
that night.

24

25



I.13

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2

Q. Again we are dealing here with

3

Thursday, March the 5th?

4

A. Yes.

5

Q. What did Dr. Sham tell you about

6

his examination of the baby?

7

A. He said he thought there was

8

definitely a cardiac problem and he wanted him sent
to Sick Children's Hospital.

9

Q. Did he elaborate for you on

10

what the cardiac problem was?

11

A. No.

12

Q. Did you ask him?

13

A. I said "Is it very serious?"

14

He said: "Well, let's just say that I don't want to
leave it until tomorrow, I want him moved tonight."

15

Q. All right. He was suggesting,

16

therefore, that you come that night to the hospital
to sign the forms?

17

18

A. He asked if we would come over

19

and sign the papers.

20

Q. All right. Did you?

21

A. Yes.

22

Q. Do you recall what time you

23

would have arrived at the North York General Hospital
that evening?

24

25



I.14

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2

A. It was around 10:30 I believe.

3

Q. All right. After the forms

4

were signed Jordan was transferred I understand by
ambulance in an Isolette to the Hospital for Sick
Children?

5

6

A. Yes.

7

Q. Did you and your husband

8

accompany him?

9

A. We followed in the car. He

10

was in the ambulance.

11

Q. Do you recall what time he

12

would have arrived at Sick Children's Hospital?

13

A. Somewhere between 11:15 and

14

11:30 I would think.

15

Q. The important thing is this:

16

do you have a recollection as to whether Jordan Hines
arrived at the Hospital for Sick Children before or
after midnight?

17

18

A. I'm sure it was before.

19

Q. So he was seen at Sick Kid's

20

Hospital on the 5th?

21

A. Yes.

22

Q. Fine. Before we go on with --

23

THE COMMISSIONER: We had trouble with
this before. I would like to make sure we have got it

24

25



I.15

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2

right. The 5th of March --

3

MR. TOBIAS: It would have been a

4

Thursday.

5

THE COMMISSIONER: Would that have been

6

a Thursday? It was a Thursday, wasn't it?

7

THE WITNESS: Yes, that was a Thursday.

8

MR. TOBIAS: Q. Before we go on,

9

Mrs. Hines, did you, at any time, ever receive a
final report on Jordan from North York General?

10

A. No.

11

Q. Do you know if Dr. Dvorak ever

12

received a final --

13

A. I believe he did, yes.

14

Q. Did you discuss that report with

him?

15

A. I can't recall discussing it, no.

16

Q. Do you recall him showing the

17

report to you?

18

A. Yes, I guess he did show it to me.

19

Q. I am showing you -- I apologize

20

for a rather bad photocopy of what I understand to be
the final discharge report from North York General.

21

Is that what Dr. Dvorak showed you from his file?

22

A. I think so, yes.

23

MR. TOBIAS: Mr. Commissioner, I am in

24

25



I.16

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your hands. I think the document speaks for itself.
I am reluctant to call Dr. Dvorak solely for the
purpose of proving it and putting it in as an exhibit.

THE COMMISSIONER: I don't think there
would be any objection, but if there is -- may I just
see this report. I take it you are not responsible
for the photocopy?

MR. TOBIAS: I understand that that was
typed on very faint canary yellow paper and it simply
doesn't photocopy very well.

THE COMMISSIONER: I wonder if we
could have the original.

MR. TOBIAS: I was about to suggest
that I will contact Dr. Dvorak and find out if he
could let us have the original for the purposes of
filing it as an exhibit. It is not a very long
report and I have had the benefit of studying it all
weekend. I wonder if I might just read it to you
very quickly, sir. It will take but a moment. I
have made copies for my friends.

-

-



1
2 THE COMMISSIONER: I don't know that
3 they will find much help. I think perhaps if you
4 make the copies and read them, perhaps not so quickly that
5 we can't --

6 MR. TOBIAS: Well, perhaps as I
7 read through it they could note some of the key
8 passages.

9 THE COMMISSIONER: Yes. All right.

10 MR. TOBIAS: This was a report which
11 indicates from page 2 that it was typed on March
12 6th, 1981. It was dictated by Dr. M. W. Fujiwara and
13 it was sent to Dr. A. Dworak who was the pediatrician:

14 "As you remember we admitted your
15 patient, Gordon Hines, two weeks of
16 age, on March 4th, 1981 because of
17 choking and loose bowels. On initialized
18 examination there was very little to
19 be found except that the child was a
20 two weeks old child that apparently
21 seemed to turn blue occasionally and
22 hold its breath or choke. I admitted
23 the child for further watching for
24 apnea spells and we kept the child on
25 a cardiac monitor to determine what was
going on with the child's heart and



1
2 respirations during these blue
3 spells.
4 X-ray of the chest showed nothing
5 abnormal except a slightly enlarged
6 thymus which was within normal limits.
7 As you remember, this child was three
8 weeks premature, there were no problems
9 at birth. Taking its feedings well,
10 and at the time of admission there
11 was no spleen palpable. The liver was
12 2 fingers down the right lower border.
13 There was no bulging at the fontanelle,
14 and had a good suck reflex, and the
15 child was admitted with the possibility
16 of an aborted SIDS child a possible
17 apnea spells of prematurity.
18 Shortly after admission, while the
19 child was on the cardiac monitor, it
20 became obvious that the child had
21 repeated attacks of bradycardia in
22 which the heart rate got as low as
23 7 per minute and during these bradycardic
24 spells, the child would turn slightly
25 pale or blue and become apneic, and
when stimulated the heart would speed



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up again and the child looked fine.
There was no evidence of sepsis, the
white count was normal, there was no
band cells, there was more lymphocytes
however, the child periodically, when
fed, D5W would appear to choke on his
mucus and turn blue, and since there
was a child at home with an acute
respiratory infection, with the second
one coming down with another respiratory
infection, and since the type of
syndrome can occur at the early phase
of pertussis in a new born. The child
was given an injection of hyperimmune
gammaglobulin for petosis and a
culture was taken for a possible
petosis. ECG was taken and it was felt
that the ECG was abnormal with some
right ventricular hypotrophy, therefore,
Dr. Shams was consulted with the
cardiac status. Because the child
appeared limp during these attacks, Dr.
Curtis was consulted concerning the
neurological status and since the child
was a new born and there was a possibility



1
2 of rare enzyme deficiencies, Dr. Cheung
3 was consulted, but after discussion with
4 all consultants it was finally felt that
5 the only abnormality we could find was
6 the abnormality in the ECG showing
7 right ventricular hypotrophy, even
8 though there was no sound of any
9 abnormal sounds from the heart,
10 abnormal murmurs. Towards the evening
11 of March 5, 1981, it became obvious
12 that the liver border had slowly
13 descended to 5 c.m. indicating the child
14 was developing some degree of myocardial
15 failure.

16 That and the abnormal ECG with the
17 bradycardia and blue spells, was felt
18 that the right ventricular hypotrophy
19 was probably due to some abnormality
20 in the heart muscle or the conduction
21 system, and the child was transferred
22 to the Hospital for Sick Children to
23 be kept in Department of Cardiology
24 for further investigations.

25 FINAL DIAGNOSIS: 'SICK SINUS SYNDROME':
with the bradycardia and tachycardia



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probably due to some form of congenital
heart disease."

3

4

Now as you indicated earlier, I will
try and get the original -

5

6

THE COMMISSIONER: I think that is fine,
it is now in the records so we have got it there.

7

8

If you can get the original we will give it an exhibit
number, but I don't think this one is of much help,
so I think we will just leave it with you.

9

10

MR. TOBIAS: All right, I appreciate
that.

11

12

MR. TOBIAS: Q: Mrs. Hines, you say
you had indicated that you were arriving at the
Sick Childrens Hospital on the Thursday, March 5th,
1981, sometime prior to midnight?

13

14

15

A. Yes.

16

17

Q. Can you just tell us, once
you did arrive, what was done for the baby, what
happened?

18

19

A. Well, he had been in an
Isolette in the ambulance with the attendants, and the
nurse that was with him took him to an examination room.
They took him from the Isolette and put him on the
bed. Then at that time they said that it is now in
the Hospital's hands and they went. I believe my

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husband went to sign some papers and I stayed with the
baby.

3

4

Q. And how long passed before
someone came to the emergency room?

5

6

A. Well the nurse came in
immediately and said that somebody would be there to
see us as soon as possible. It was probably maybe
ten to fifteen minutes.

7

8

9

Q. And during that period were
you observing the baby?

10

11

A. Yes.

12

Q. Were there any changes in
colour or difficulties in breathing?

13

14

A. No. He was crying most of
the time.

15

16

Q. I take it that eventually you
did see a doctor?

17

A. Yes.

18

Q. And can you tell me if you
recall who you saw?

19

20

A. Dr. Contreras.

21

Q. Was there anyone else who
looked at the baby that night?

22

23

A. There was a lady doctor as
well, and I can't remember her name.

24

25



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2

Q. Would that be Dr. Mangaro?

3

A. I can't remember.

4

Q. You have no specific recollection?

5

A. No, I can't remember the name.

6

Q. What were you told?

7

A. They put an ECG machine and
got a tape reading and said his heart rate was
irregular and that they would have to do some further
tests.

10

Q. So at that time it was
concern for you that there was some problem with
respect to the heart rhythm?

11

12

A. Yes.

13

14

Q. You knew the heart beat was
irregular?

15

A. Yes.

16

17

Q. Did anyone explain to you in
what fashion it was irregular?

18

19

20

A. Yes. I think they showed us
a tape and there was like long spaces inbetween each
indication of a beat I guess, and then short spaces
and he explained that this was fast and this was slow.

21

22

Q. Indicating an alternating
rapid and slow heart beat?

23

A. Yes.

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Q. Was anything else done for the baby that night other than the ECG?

A. He had a chest x-ray taken.

Q. And at that point the baby was admitted I take it?

A. After the x-ray, yes.

Q. Now, Dr. Contreras advised you that he was being admitted so he could be monitored I take it?

A. They wanted to do other tests on him, more extensive tests on his heart.

Q. So that particular evening they were not in a position to tell you what, if anything, was wrong?

A. No.

Q. The only symptoms there were was some problems with respect to the heart rate?

A. That's right.

Q. Did you then leave, or did you stay so you could accompany the baby to the floor?

A. We went up to the floor with the baby, yes.

Q. What type of room was the baby admitted to?

A. There was just one crib in



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the room. It was a private room I think.

3

4

Q. So at that time as far as
you knew the baby was by himself?

5

A. Yes.

6

7

Q. There were no other children
in the room?

8

A. No.

9

Q. Did you speak to the medical
staff again before you left?

10

11

A. There were two nurses in
the room waiting for him when we got there.

12

Q. Yes.

13

14

15

16

17

A. And they indicated to us that
there really wasn't much point, as it was so late,
by this point it must have been at least 1:00 or 1:30,
there really wasn't much point in us staying because
they didn't think there would be anything else done
to him at that time.

18

19

Q. When was the next time that
you spoke to any of the medical staff at the Hospital?

20

21

22

A. During that night actually,
the lady doctor phoned, it must have been around 4:00
or 5:00 o'clock I guess.

23

24

25

Q. Was she able to give you any
further information about the status of the baby or



1
2 what they proposed to do?

3 A. No, she said that they wanted
4 to talk to us before we left and I said well I really
5 didn't realize they needed to talk to us at that point.
6 She said, well, that is why I am phoning you now to
7 let you know what we are going to do. So she told us
8 they would do a lumbar puncture to test for meningitis
9 and that he would be put on antibiotics in case he
10 had some kind of infection, and not to be surprised
11 when I came in the next day to see that he was on an
I.V.

12 Q. Did you ask why the antibiotics?

13 A. Well she told me just to
14 cover if there maybe an infection there.

15 Q. Was it your understanding at
16 that time, if you had an understanding, that it was
17 possible that some type of infection could account for
the irregularity of the heart rhythm?

18 A. Not really, not at that point,
19 no.

20 Q. Now I take it that is all the
21 information you can really give us about what happened
22 or what was said, or what you observed, on the 5th of
23 March?

24 A. That's right.

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Q. We now come to Friday morning
of March the 6th, 1981. You spoke to the Hospital
I take it in the morning?

A. Yes, I called.

Q. You called the nursing
station, did you?

A. Yes.

Q. And as a result of that
communication was there any cause for concern?

A. No. They told me that they
had done the lumbar puncture.

THE COMMISSIONER: I'm sorry, they
had done what?

THE WITNESS: The lumbar puncture,
I think that is how they pronounced it, it is to test
for meningitis.

Q. What, if anything, were you
told about what type of night the baby had had?

A. He had a peaceful night, I
believe.

Q. There was no indication to
you on the telephone that there were any problems,
was there?

A. No.

Q. Did you then sometime later



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that day go down to the Hospital?

3

4

A. Yes. My husband and I went
in the afternoon on the Friday.

5

6

Q. And when you got there what
room was Jordan in?

7

8

A. He was in the same room.

9

10

Q. Was he the only baby in
the room?

11

12

A. Yes.

13

14

Q. Tell me what you observed
on that Friday afternoon please?

15

16

A. Well, he had the I.V. As
far as I know he had been feeding okay and he seemed
to be okay, he seemed to be fine.

17

18

Q. Did you notice on that Friday
afternoon any of these blue spells that you had seen
before?

19

20

A. No.

21

22

Q. Did you notice any difficulty
in breathing or shallow respiration?

23

24

25

A. No.

Q. Now I take it - well, I
shouldn't take it, was he on a monitor at the Hospital
for Sick Children?



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A. Yes.

3

4

Q. Was it the same type of
cardiac monitor, was it a digital?

5

A. I don't recall it being that,
no.

6

7

Q. Do you know, do you have
any information about whether he had any periods of
slow heart beat that afternoon?

8

9

A. No, I don't.

10

11

Q. You can't really help us on
that?

12

A. No.

13

Q. Now, did you speak to any of
the medical staff at the Hospital that day?

14

15

A. Yes. When we got there the
nurse told us that a doctor would be coming to see us;
and we had been there a short time and Dr. Schaffer
came.

16

17

18

Q. So you had a conversation
on that afternoon I take it with Dr. Schaffer?

19

20

A. Yes.

21

Q. What was he able to tell you
regarding the baby's condition?

22

23

A. They had done more chest
x-rays and extensive heart examinations and that there

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appeared to be nothing structurally wrong with his heart but there was some shadow on his lung and they felt that he had pneumonia, which was causing the shallow breathing, which in fact the shallow breathing was then causing the heart rate to slow down, that is how it was explained.

8

9

Q. So that the presence of what he had at that time thought was pneumonia accounted for both the shallow breathing and the slow heart beat?

10

11

A. Yes.

12

Q. Did you ask him how it was being treated?

13

14

A. He told us that it was being treated with antibiotics, two antibiotics to cross match.

15

16

17

18

Q. Did you ask him at that time, or did it occur to you to ask him whether the pneumonia could also account for the rapid heart beat, was there any discussion about that at all?

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A. No, because I think he satisfied us when he said that the pneumonia was causing the irregular heart beat.

Q. All right. What other enquiries, if any, did you make of him?

A. I said how long did he think Jordan would be there and he said, well, he started on antibiotics yesterday and maybe he would be home in two weeks.

Q. All right. Was there any further discussion that afternoon with Dr. Schaffer?

A. No, not that I can recall.

Q. Okay. And do you recall whether there was any further discussion that afternoon with any of the other medical staff at the Hospital?

A. We did talk to the nurses that were there.

Q. No, when I say medical staff I mean specifically with the doctors.

A. No.

Q. And I take it that some time --

A. Oh, I believe that Dr. Contreras did pop in while we were sitting there with the baby.

Q. Do you recall if you had any conversation with Dr. Contreras?



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A. Yes. He had told us that they had done extensive heart tests and it did appear that his heart was normal.

5

Q. Okay. Was that the only other conversation you had on the Friday?

6

7

A. Yes.

8

9

10

11

12

13

14

Q. All right. So, your state of knowledge, if we can review it just for the moment, at that time you had witnessed several periods at home of blueness and a shallowness of breathing, you had gained some information in North York General that there was some suspected cardiac anomaly and you had been told at The Hospital for Sick Children that the heart tests indicated a structurally normal heart and that the problem appeared to be pneumonia?

15

A. Yes.

16

17

18

Q. And at that time were you satisfied with that explanation? Did that account to you for what you had witnessed at home?

19

A. Yes.

20

21

22

Q. All right. Can you tell us anything else about the baby that afternoon? You have already told us that you didn't notice any blue spells. Did you feed the baby?

23

A. My husband fed the baby.

24

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Q. How did he feed that afternoon?

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A. He seemed to feed okay but then

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he vomited and the nurse had to come and suction his
nasal passages.

5

Q. All right. And after that was
done were there any further problems?

6

7

A. No.

8

Q. All right. And I take it that

9

some time thereafter you left the Hospital and went
home?

10

A. Yes.

11

Q. Did you call the Hospital again
that day?

12

13

A. Yes, I would have called before
I went to bed.

14

15

Q. And was there anything about that
telephone call that was noteworthy? Did they say
anything about the baby's condition?

16

17

A. No, he was resting peacefully.

18

Q. So again no cause for alarm,
no cause for concern at that time?

19

20

A. No.

21

Q. Can you tell us then what you
did on Saturday, March 7, 1981?

22

23

A. I would have called in the

24

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morning and they told me that he had a peaceful night.

3

Q. Yes.

4

A. And I told them that I would be
down later that day.

5

6

Q. Did you enquire at that time
whether the baby had had any more of these spells?

7

8

A. I can't recall asking at that
time.

9

10

Q. But if you had been advised of
that, that is something that you would recall, I take
it?

11

12

A. I'm sure I would have, yes.

13

14

Q. And you have no recollection of
being told that there had been any problems that night?

15

16

A. No.

Q. Okay. Fine. Did you eventually
go down to the Hospital that day?

17

18

A. Yes.

19

Q. Can you just tell me when and
what you observed when you came down to the Hospital?

20

21

22

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24

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A. I arrived about midday. I went
up to the floor and I went to go to the small room that
he had been in and one of the nurses stopped me and
told me that Jordan had been moved across to a larger
room, which I believe was Room 431, and there were



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K5

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several other babies in there.

3

Q. So that on the Saturday night
when you arrived, he was no longer in a room by himself?

4

5

A. That is correct, yes.

6

Q. What time did you say that was
approximately?

7

8

A. That would have been around
midday, 12:00, 12:30.

9

10

Q. And how long did you spend with
the baby that afternoon?

11

12

A. Well, when I got there, he wasn't
actually in his bed, they had taken him for more
x-rays.

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14

Q. All right. He eventually was
brought up to the floor, I take it?

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A. I asked the nurse who was there
how long he would be and she said he should be up
very soon and she said why don't you go and get a
coffee. So, that's what I did. And, when I came back
up from the coffee shop he had been brought back up
to the room.

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Q. All right. And how long did you
spend with him that afternoon?

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A. I was with him until about 5:00,
5:30, I believe.

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Q. And I take it that you were with him that afternoon constantly?

A. Yes.

Q. And observing him. You don't recall leaving him to go and have a meal or anything?

A. No.

Q. Was there anything unusual about the baby's condition that afternoon? Did you notice him getting into any difficulty at all?

A. No. In fact, he seemed to be a lot perkier.

Q. And I take it that you assumed that he was responding to the antibiotics?

A. Yes.

Q. No blue spells, no shallow breathing? Who was it who was caring for the baby that afternoon, do you remember?

A. Janet Brownless did come in and tell me that she was going to be taking care of Jordan. When I first got there, I think the nurse that was in the room that had told me he had gone down for an x-ray was his nurse and then Janet did come in and say she didn't have a baby assigned to her that afternoon so she asked if she could have Jordan assigned to her.

Q. Now, I take it that Janet



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Brownless - we have already heard evidence from Miss Brownless. I understand that Janet Brownless was an acquaintance of yours?

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A. Yes.

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Q. You and your husband's?

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A. Yes.

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Q. So, you must have taken some measure of comfort from the fact that an acquaintance of the family was caring for the baby?

9

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A. Yes, I did.

11

Q. Did you spend a considerable amount of time with Janet Brownless that afternoon?

12

A. Yes.

13

Q. In the presence of the baby?

14

A. Yes.

15

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Q. And I take it you were having some conversation with her?

17

A. Yes, we just sat down and I had the baby in my arms most of the time, all of the time I believe.

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Q. Do you recall anything unusual or noteworthy about that afternoon or the discussions that you had with Janet Brownless?

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A. Yes. I don't know what time it was, but this alarm went off while we sat talking and

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Janet immediately ran out of the room and then, when she came back, it was just a matter of a minute or two that she came back, and I said, Lord, what was that? And she said, oh, it was a Code Blue. And I said, well, what does that mean? And she said, the heart monitor, the alarm has gone off on a heart monitor, and I said, what does that mean, and she said, a baby could have gone into an arrest but don't worry, that was a false alarm. She did tell me that it seemed to be happening a lot lately.

THE COMMISSIONER: Excuse me, that wasn't Jordan's monitor?

THE WITNESS: No, it wasn't. It was another monitor.

THE COMMISSIONER: Oh, I see.

I wonder if this would be a convenient time, or is it not a good time?

MR. TOBIAS: In about 30 seconds would be a very good time.

THE COMMISSIONER: Yes, all right. We will wait 30 seconds.

MR. TOBIAS: Q. She said to you that was happening a lot lately. What, if anything, did you then say?

A. But she said that was a false



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alarm and I said, Oh, God, what do you do if it's not a false alarm, and she said, well, they have what they call a crash cart and she basically told me that they have a resuscitation team that they try to revive the baby. I guess at that point I was a little upset and I looked at Jordan and she said, oh, don't even think it, as if to say this isn't ever going to occur to your baby.

Q. You got the distinct impression that she wasn't at all concerned about Jordan's condition?

A. No. In fact, that's what we had been talking about, how well he had seemed to perk up within just those 24 hours from the Friday to the Saturday.

Q. She certainly didn't feel there was any need for you to be concerned?

A. No.

MR. TOBIAS: This would be an appropriate time, Mr. Commissioner.

THE COMMISSIONER: All right. Well, we will rise then until 2:15.
--- luncheon recess.



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--- on resuming at 2:15 p.m.

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THE COMMISSIONER: Yes, Mr. Tobias.

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MR. TOBIAS: Thank you, Mr.

Commissioner.

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Q. Just before lunch, Mrs. Hines, you were telling us about your conversation with Janet Brownless and your perception that there was certainly nothing to be concerned about on the Saturday afternoon.

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Did you speak to anyone at the Hospital later that Saturday after you had left?

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A. Yes. Janet told me, I think the shift was finishing at 7:00, and she said, you know, I was to call her off shift and she could tell me how he was doing, which I did, and she had fed him and she said that he was sleeping peacefully and his heart was regular.

17

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Q. I see. Had Janet Brownless been with the baby for the balance of that afternoon?

19

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A. I believe so, yes.

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Q. While you were there?

A. Yes.

Q. You didn't notice any blue spells or anything to be concerned about later on that afternoon?



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A. Oh, no. No. I felt very confident actually when I left because he was with Janet and I really felt in my heart that he was getting better.

Q. I understand that when you left, in fact, Janet Brownless had the baby in her arms, did she not?

A. Yes, she did.

Q. To your knowledge, she had been with the baby thereafter until the end of her shift and she could see no cause for concern when you spoke to her at 7:30?

A. That is right. She felt very confident too, I think.

Q. Before retiring that evening, did you phone the Hospital again?

A. Yes. I called again about eleven o'clock, and I don't know who his nurse was; I asked to speak to his nurse, whoever it was I spoke to, and she told me the same, that he had been fed again and he was sleeping peacefully. I asked about the heart rate and she said it was stable.

Q. So at that time you specifically had asked about the heart rate?

A. Yes, I did.



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Q. Because at that point you were fixed with the knowledge that there had been some irregularity in the beat and were concerned about it.

Do you recall whether or not that nurse could have been Susan Reaper? Does that name mean anything to you?

A. Well, now it does because I know of the name, but I can't say that that was Susan Reaper I actually spoke to.

Q. You have no independent recollection of that is who you spoke to?

A. No, I don't.

Q. In any event, it was basically at 11:00 p.m. pretty much the same story you had been getting all day Saturday; that there was nothing to be concerned about?

A. That is right.

Q. Could you tell us what happened then? What was the next thing that transpired?

A. We had a call, it must have been about 4:15, 4:20 a.m. that Sunday morning. It woke us up. I answered the phone simply because the phone was on my side of the bed. It was Dr. Kobayashi. He said that Jordan had gone into cardiac arrest, and I asked him -- he said lots of things actually, but I



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AA4 2 said to him, "You are going to have to talk to my
3 husband and explain everything to him; I really can't
4 take this, it is such a shock." So I handed the phone
5 over to my husband and he spoke to the doctor and he
6 put the phone down and -- we told the doctor -- he
7 asked if we should come down and I think Kobayashi said
there was really no need.

8 Q. Let me stop you for one moment,
9 Mrs. Hines. I realize this is terribly, terribly
10 difficult. Let's just take it very, very slowly.

11 At that time, the time of the first
12 phone call from Dr. Kobayashi, was there any indication
13 that there was no immediate danger because the heart
beat had been restored?

14 A. Yes. He had said he had gone
15 into cardiac arrest and they had restored his heart
16 beat. That is when I said, "You are going to have
17 to explain everything to my husband." I was in no
18 state to really take in what he was telling me.

19 Q. I understand that shortly after
20 that, your husband telephoned Dr. Kobayashi?

21 A. That's right. We sat there for
22 I guess all of a minute and said, why are we still
sitting here? We should be down there anyway.

23 Q. So you had made the decision that
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you were going to go down to the Hospital regardless?

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A. Yes. He phoned Dr. Kobayashi and said that we were coming down. I was not aware of this at the time on the way down. My husband told me afterwards that, in that conversation, Dr. Kobayashi told him that his heart had stopped again.

Q. But at that time that you got into the car to go down to the Hospital with your husband, you weren't aware of that?

A. I wasn't aware.

Q. That is not something your husband had disclosed to you at that time?

A. No.

Q. This was quite some time after, I take it, he shared this knowledge with you?

A. Yes.

Q. I take it you then went down to the Hospital?

A. Yes.

Q. When you got to the Hospital, who was the first person that you had any contact with?

A. We walked down the corridor and Sui Scott was walking up the corridor and she kind of stopped us and said, "They are still working on Jordan," and she ushered us into a room, a parents' room I think it is called.



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Q. Let me ask you to pause again for a moment. At that particular moment in time, you still didn't know there had been a second cardiac arrest?

A. No, I didn't know.

Q. Did you enquire of Nurse Scott as to what the prognosis was?

A. Yes.

Q. What did she respond?

A. She told us that they were still working on him and it didn't look very promising, the prognosis was poor.

Q. Do you recall one way or the other approximately what time it was that you first arrived at the Hospital?

A. Well, I had to wait for my friend to come and sit with the kids, so that we must have left around 5:00; probably around 5:30 that we actually got to the Hospital.

Q. Fine. What was the next thing that happened after your conversation with Nurse Scott?

A. I think then Dr. Kobayashi came in and, more or less, said they were still trying to resuscitate him. I think he told us they were trying a different pacemaker or something.



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Q. Did you understand the purpose of that visit to the parents' room to keep you informed?

A. I realized they certainly didn't want us near the room.

Q. Yes.

A. That is why we were ushered into the parents' room.

Q. What I am really suggesting to you is this: the Hospital staff did come to you on at least one occasion to advise you of what the status of the resuscitation effort was?

A. Yes.

Q. To tell you they were still working on him?

A. Yes.

Q. Okay. Do you recall what then happened after that visit from Dr. Kobayashi?

A. Some nurse came in and asked us if we wanted tea and I said, "Yes, I would like a cup of tea." I don't know who that was, actually.

Q. Yes.

A. Then I guess it must have been around 6 -- it seemed like we were there for ages, but I guess it was maybe only a half an hour or so, and a



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AA8 2 whole troop of people came in.

3 Q. Unfortunately, it was ultimately
4 communicated at some time that the resuscitation hadn't
5 been successful and that the efforts had ceased?

6 A. Yes.

7 Q. Well, we can well understand
8 what your emotions were at that particular moment. I
9 just ask you to think back for one brief moment, if
10 you can, to a specific conversation with Dr. Vera Rose
11 on that morning.

12 Do you recall her speaking to you
13 about what the Hospital proposed to do in order to
14 determine the cause of death?

15 A. She wasn't sure why he died;
16 so, therefore, in circumstances like this, I think she
17 said, they would like to do an autopsy.

18 Q. Do you recall what the immediate
19 reaction of yourself and your husband was?

20 A. Our immediate reaction was that
21 we have lost; ~~what did~~ it matter. That was
22 just our initial reaction. I believe at the time there
23 was a nurse there with us - I think it was Mary Jane
24 Halpenny. She stayed with us after Dr. Rose had tried
25 to ask us to have an autopsy, and she said, "Well, you
think about it". So, we discussed it, and the nurse



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said that often this is the parents' reaction to just automatically say, "No", at the initial shock of the death of the child but, she said, afterwards you start asking yourself questions that you want to know what happened.

Q. On that occasion when Dr. Rose asked for consent to do an autopsy and your initial reaction was not to give that consent, was that the end of the discussion that evening regarding an autopsy or was that subject approached again?

A. That morning.

Q. That morning?

A. Yes.

Q. Who raised it and approximately how long after your conversation with Dr. Rose?

A. Dr. Costigan came in. I don't know how long after it was; maybe five minutes.

Q. What did Dr. Costigan say to you?

A. He was very upset. He said -- he stood there with his head down and he said, "We feel..." I can't remember whether he said, "We feel" or "I feel", but definitely he used the word "guilty". He said this baby should not have died.



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Q. You can't recall whether he
said "we feel guilty" or "I feel guilty"?

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A. I know he used the word "guilty".

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Q. What did he feel guilty about?

6

A. That the baby had died.

7

Q. What else did he tell you during
that conversation?

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A. Well he tried to tell us how
important an autopsy would be.

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Q. Was it your perception that his
concern for the autopsy was because he had no forth-
coming, immediately forthcoming explanation or
theory about what had caused the death, he was as
puzzled as you were?

14

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A. Yes.

16

Q. Clearly surprised by it?

17

A. Yes.

18

Q. I would assume.

19

A. Yes.

20

Q. That he indicated that surprise
to you in that conversation, do I have that correct?

21

A. Yes.

22

Q. Do you recall Dr. Costigan

23

indicating to you whether he had any specific areas
in mind to investigate by way of autopsy, on that

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occasion, in that early morning?

A. He said that they would probably - well would definitely look at the heart and maybe the conduction system of the heart.

Q. Now let me stop you for a minute. Again I stress that I know that it is very difficult for you to come here and talk about that particular morning in the kind of detail that I am asking you to, and I apologize to you. The first time that you had received any indication at all that there was any suspicion of an cardiac anomaly was from Dr. Shams in the North York General Hospital, do you recall giving that evidence?

A. Yes.

Q. Then you told me this morning that after speaking to Dr. Schaffer that it had been more or less put out of your mind, it had been diagnosed as pneumonia, and as far as you knew you had a baby with a perfectly normal cardiac system who was suffering from pneumonia, and pneumonia was accounting for the cardiac problems. Now this is clearly the first time there, after that, the question of any cardiac problem is raised, when he says he wants to look at the conduction system. Did that surprise you at the time, did it shock you?



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A. I think when he said that,
then I said to myself he must have had a very bad
heart to just suddenly die and I accepted the fact
that they would certainly look into his heart
something wrong with it, abnormal.

Q. I take it ultimately you and
your husband did give your consent to a post mortem?

A. Yes.

Q. And when you left that night
who had you been told to contact regarding the
results of the autopsy?

A. Dr. Costigan told my husband
that he could call him any time.

Q So as far as you knew the
information that you were seeking as to the explanation
for your baby's death would come from Dr. Costigan,
he was the person, the contact person that you were
supposed to reach. At any time thereafter do you
recall having contacted Dr. Costigan, either you or
your husband in this case?

A. I know my husband called him.

Q. Do you know when that would have
been?

A. I think it was a Tuesday, maybe
two days later.



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Q. We know that the terminal events were early on a Sunday morning. Now when you say the Tuesday, do you have a clear recollection that it was sometime during that first week after the baby passed on?

A. It was definitely during the first week.

Q. Is there any doubt in your mind about whether or not it could have been considerably later, many weeks after that?

A. No, it was definitely in the first few days because we were very anxious at this point to find out what had happened and what went wrong.

Q. And it was your expectation when your family contacted him that you would be given some explanation?

A. That's right.

Q. Can you tell me whether or not that explanation was forthcoming, when he was contacted?

A. Well like my husband made the telephone call, so I can only tell you what he told me.

Q. Well I think in this particular



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proceeding that we can probably forgive you for that,
although we wouldn't if we were in a regular trial.
Tell us what your husband said, what he indicated.

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A. He indicated, he said Dr.
Costigan had said that the autopsy was inconclusive.
That on the initial examination his heart appeared
to be completely normal.

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Q. Yes.

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A. Therefore they had to look
deeper and that would mean doing some many hundreds
of slides of heart tissue, which would take several
weeks before we had an answer to look into the
conduction system of the heart.

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Q. So at that point your information
was that the conduction system itself was not being
studied?

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A. Yes.

Q. You understood it would be
a time consuming and a difficult progresss?

19

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A. We had to be patient and wait
for the answer which would be two months before we
had it.

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Q. At that point you knew that the
explanation that you were seeking, so you
could put this behind you, would take some time, more



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time to come?

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A. Yes.

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Q. Now I want to be very clear

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with you on this point. At that time, several days

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after the death, did you have any knowledge back

7

then that anyone at North York General at all had

8

even suspected Sudden Infant Death Syndrome?

9

A. No.

10

Q. This was something you only

11

found out much later I take it when Dr. Dworak

12

showed you that report?

13

A. Yes.

14

Q. How recently would that have

15

been that he showed you the report, weeks, months?

16

A. Yes, a month ago.

17

Q. And up to that point, again

18

the time frame I am trying to direct you to is that

19

conversation your husband had with Dr. Costigan, had

20

anyone at the Hospital for Sick Children, and I do

21

mean anyone, doctors, nurses, administrators, had

22

anyone suggested to you that Sudden Infant Death

23

Syndrome was a possibility?

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A. No.

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Q. Can you tell me about what

happened immediately after in the weeks and months

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following that first phone call to Dr. Costigan,
what was the state of your information at that time?

A. Well, two weeks later, or close
to three weeks later maybe, a nurse was arrested on
a murder charge.

Q. What effect, if any, did that have
on the flow of information to you and your husband?

A. Well the flow of information
- we still did not have an answer to why our baby died.
It was very coincidental that our baby had died on
the same floor as the murder charge and we got in
touch with the police. We said we needed some answers
as to why our baby died.

Q. Were the police able to give you
any answers?

A. No, they said they were looking
into his case.

Q. When they said "his case" they
meant Jordan's case?

A. Jordan's case.

Q. Did you have any contact there-
after with the people from the Hospital; did you
call Dr. Costigan again?

A. I can't recall, I don't think so.

Q. When was the first time that you



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were advised that Sudden Infant Death Syndrome was something that the Hospital considered a possibility?

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A. It was quite sometime afterwards.

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We had a letter from the Hospital to say that they had other medical reasons why he died, and it must have been - it was after the birth of my daughter so it was sometime in 1982.

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Q. When you got the letter what if anything did you do about it?

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Q. Who did you call, Mrs. Hines?

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A. Mr. Sneddon.

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Q. And was an appointment
arranged for you to meet with him?

5

A. Yes.

6

Q. Did that meeting ultimately
take place?

8

A. Yes.

9

Q. Do you recall when?

10

A. Sometime at the end of July 1,
believe, I can't remember the date.

11

12

Q. Would that be July of 1982?

13

A. Yes.

13

14

Q. Who was present at that
meeting?

15

A. Dr. Fowler, Mr. Sneddon,
myself and my husband.

16

17

Q. Now, the real question is this.
Between the time of your phone call to Dr. Costigan
and your meeting with Mr. Sneddon and Dr. Fowler had
you been able to obtain any further information about
the death through the Hospital?

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A. I seem to remember my husband
calling Dr. Costigan again and this was after Susan
Nelles had been arrested and he then said that it was

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2 in the police hands and he couldn't give us any more
3 information.

4 Q. Other than that call to Dr.
5 Costigan were there any other efforts to gain any
6 information through the Hospital?

7 A. I can't recall. I think we
8 probably did phone but again we were told, you know,
9 it was in the police hands.

10 Q. Okay. Is it fair to say then
11 that following the charging of the particular nurse,
12 the flow of information was really impeded to a great
13 extent?

14 A. Yes.

15 Q. Because it was then a matter
16 for the police?

17 A. Yes.

18 Q. And your recollection is that
19 it wasn't until July of 1982 that you were advised that
20 there were valid medical reasons and those reasons
21 turned out in your meeting with Dr. Fowler to be
22 sudden infant death syndrome?

23 A. That was July of '83.

24 Q. Okay.

25 A. No, '82, I'm sorry.

Q. July of 1982, some 15 months



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after the fact?

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A. That's right.

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Q. It clearly must have been
a very frustrating time for you?

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A. Yes.

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Q. Unaware of what was happening,
unaware of what the answer was?

8

A. Yes.

9

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Q. After your meeting in July
with Mr. Sneddon and Dr. Fowler when was the next time
that you had any contact whatsoever with any Hospital
personnel?

11

12

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A. I guess when I went to visit
Phyllis Trayner.

14

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Q. Now, we have heard evidence
here that that happened on or about February the 28th ,
1983. Does that seem correct to you?

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A. Yes. I can't remember the
exact date.

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Q. Can you tell me, Mrs. Hines,
the circumstances under which you came to speak with
Phyllis Trayner?

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A. Well, over the months after
the preliminary hearing I became quite friendly with
Ruth Doehler, who is a freelance journalist, and she

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2 had been at the preliminary hearing and she had an
3 awful lot of information and we talked an awful lot
4 on the telephone and in fact it was Ruth that told me
5 that Susan Nelles and Phyllis Trayner had had a
6 dispute about the pacemaker to be used during Jordan's
7 resuscitation. I was a little concerned at that point,
8 I wanted to talk to somebody about that incident and
9 I conveyed to Ruth that, you know, it would be
10 interesting to talk to Phyllis to see what she had to
11 say about the way my baby died. That was basically how
12 we came to go and visit Phyllis Trayner.

13 Q. Now, I take it that that
14 was something done without first making arrangements
15 with Mrs. Trayner or consulting her in any way?

16 A. Right.

17 Q. So, the visit must have been,
18 obviously, from her point of view in fairness quite a
19 shock?

20 A. Yes, I'm sure it was a shock.

21 Q. All right. And when you did
22 go to Mrs. Trayner's apartment and knock on the door,
23 I take it you identified yourself?

24 A. That's right. Ruth identified
25 herself first and then she introduced me.

Q. All right. Ultimately, did



1
2 a conversation take place between yourself and Mrs.
3 Trayner?

4 A. Yes. Mrs. Trayner invited us
5 in. I would like to stress here that I was not standing
6 on her doorstep crying either, I was very in control.

7 Q. Yes.

8 A. And she invitied us in and
9 it was all very civilized. I certainly wasn't there
10 to harass her in any way. I just wanted some information.
11 She had been with my baby when he died, and I felt that
12 maybe she could give me some of the information, some
of the circumstances surrounding his death.

13 Q. I think we can appreciate
14 what your motivation was. Do I take it that there
15 was some discussion about events at the Hospital
generally between Ruth Doehler and Phyllis Trayner?

16 A. There was but I can't recall in
17 detail what they were.

18 Q. You were only interested in
19 getting some questions answered about your own baby,
20 you weren't really paying attention too much to the
balance of the conversation I take it?

21 A. Yes.

22 Q. Can you tell us, as best you
23 can recall, what conversation there was regarding your
24
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A. I asked her about this incident with the pacemaker. I said that I understand that you and Susan stood arguing regarding what pacemaker to use and I found that a little hard to understand how two nurses can stand arguing over a baby that is dying. She said, well, it wasn't quite like that. She asked Susan to bring one particular pacemaker and she came back with another pacemaker and they discussed it and Phyllis said that is not the pacemaker that I told you to get and then she went to get the one she originally wanted. That's how it was told to me anyway.

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Q. Was there anything else discussed other than the pacemaker incident? Were there any other questions that you asked?

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A. We talked about Jordan. I asked her if she was aware that they had found on exhumation digoxin in his system and he was not prescribed the drug and she said that she was aware of that. She told me that it was a very long resuscitation. I said to her that it was a terrible shock to us that he died. I mean, I knew he was getting better, I thought he was getting better and suddenly he died. She told me that he seemed to have



1
2 a very strong heart because the resuscitation was
3 such a long time and they brought him back several
4 times and I said, well, in view of all that do you
5 think my baby died of natural causes. She kind of
6 agreed with me that he didn't.

7 Q. Was that an opinion that
8 she volunteered or did you specifically ask her?

9 A. I asked her if she thought
10 my baby died of natural causes.

11 Q. And at that time her belief
12 was that he had not?

13 A. In view of the digoxin and
14 the fact that his heart was basically sound.

15 THE COMMISSIONER: I'm sorry, I missed
16 the first part of that, what did you say?

17 THE WITNESS: In view of the fact that
18 digoxin was found in his system.

19 THE COMMISSIONER: Oh, yes.

20 MR. TOBIAS: Q: Mrs. Hines, is there
21 anything that you can add specifically with respect
22 to your meeting with Phyllis Trayner that will assist
23 the Commissioner?

24 A. I don't think so, no.

25 Q. Is there anything Mrs. Hines
that you can add about your observations generally



1
2 about what happened between March 4th and March 8th,
3 1981, anything that you can recall, anything that
4 I may not have covered that you think would assist
5 the Commissioner in determining how that baby died?

6 A. No, I think you have covered
7 most of it.

8 Q. Let me ask you this one last
9 question. This is obviously a proceeding that you have
10 followed with some interest. I hope that your
11 counsel has attempted to keep you advised of the
12 evidence and to try to explain the evidence and to
13 keep you aware of it. You obviously have been following
14 the evidence with a great deal of attention?

15 A. Yes.

16 Q. I don't want you to tell us
17 what you think happened to your baby, I don't want
18 you to give that opinion or conclusion if indeed you
19 have one, but what I want to ask you is this: Having
20 been listening to these proceedings for the last
21 11 months do you feel that in your heart today you
22 know what happened to your baby?

23 A. Yes.

24 MR. TOBIAS: Mrs. Hines, I don't have
25 any further questions for you. My friends may have
some. Thank you very much for coming in and trying to



CC-9

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2

assist us.

3

THE COMMISSIONER: Mr. Lamek?

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MR. LAMEK: No, I have nothing, Mr.

5

Commissioner.

6

THE COMMISSIONER: Mr. Fischer?

7

MR. FISCHER: No questions, Mr.

8

Commissioner.

9

THE COMMISSIONER: Miss.Rae?

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MS . RAE: I have no questions.

11

THE COMMISSIONER: Miss Cecchetto?

12

MS. CECCHETTO: No questions.

13

THE COMMISSIONER: Mr. Young?

14

MR. YOUNG: No questions, Mr.

15

Commissioner.

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THE COMMISSIONER: Mr. Roland?

17

MR. ROLAND: No, I have no questions,

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Mr. Commissioner.

19

THE COMMISSIONER: Miss Chown?

20

MS. CHOWN: No questions, Mr. Commissioner.

21

THE COMMISSIONER: Miss McIntyre?

22

MS. McINTYRE: No questions.

23

THE COMMISSIONER: Mr. Knazan?

24

MR. KNASAN: No questions.

25

THE COMMISSIONER: Mr. Olah?

MR. OLAH: No questions.



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THE COMMISSIONER: Mr. Labow?

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MR. LABOW: No questions.

4

THE COMMISSIONER: Mr. Shanahan?

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MR. SHANAHAN: Just on one area.

6

CROSS-EXAMINATION BY MR. SHANAHAN:

7

Q. You said that initially someone

8

had advised you about an autopsy and that your first

9

reaction was that you just, with the child having

10

died, that you really felt that the autopsy was of
no value?

11

A. But that was just a matter

12

of minutes before.

13

Q. And there was some input from

14

a nurse there I gather?

15

A. Yes.

16

Q. Advising you that your

17

reaction was really par for the course if you like and
thinking it over again it may indeed assist you?

18

A. That's right, yes.

19

Q. Do you remember who that

20

nurse was?

21

A. I think it was Mary Jean

22

Halpenny.

23

Q. All right. And did you within

24

moments then decide that indeed an autopsy might start

25



1

2

to answer some questions for you?

3

A. That's right, yes.

4

MR. SHANAHAN: That's right, yes.

5

All right, thank you.

6

THE COMMISSIONER: Mr. Lamek?

7

MR. LAMEK: No thank you, sir.

8

THE COMMISSIONER: Mr. Tobias?

9

MR. TOBIAS: Sir, not even I would have
any re-examination on that.

10

THE COMMISSIONER: All right. Thank
you very much, Mrs. Hines.

12

THE WITNESS: Thank you.

13

THE COMMISSIONER: Are you next, Mr.
Shanahan?

14

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MR. SHANAHAN: Yes. If I could call,
sir, Mr. Lombardo. Mr. Lombardo, do you want to come
forward, please.

16

17

DOMINIC LOMBARDO, Sworn

18

DIRECT EXAMINATION BY MR. SHANAHAN:

19

Q. Mr. Lombardo you are 37 years
of age and you are married and you have been married
for 8 years is that right?

20

21

A. That's correct.

22

23

Q. Your wife's name is Norma and
she is present here today?

24

25



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2

A. Yes, she is.

3

4

Q. All right. You were born in Italy and came to Canada in '59 and you are a Canadian citizen?

5

6

A. Yes, I am.

7

8

Q. You own your own home out in Etobicoke and you have lived there at that address for the last six years?

9

10

A. That's correct.

11

Q. And you are a professional

photographer and you have your own business?

12

A. That's correct.

13

Q. And your wife is also employed

with the Metro Social Services?

14

A. That's right.

15

Q. You have two other children;

16

you have a daughter Lisa who is five and a half ?

17

A. Yes.

18

Q. Your daughter Stephanie would

19

have been next in line and then your other child is a daughter Nadia and she is two and a half?

20

A. That's right.

21

Q. Stephanie would have come

22

between the two?

23

A. Yes.

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Q. Your daughter Stephanie was born on December 13th, 1980 at North Western Hospital?

A. Yes, she was.

Q. All right. And right away at the birth of the child or shortly thereafter did you become aware or were you made aware that she had some difficulties with her heart?

A. Well, I was in the delivery room when Stephanie was born and at that time we did not know that she had a heart problem. But I learned it after when I went home from my wife later when she called me that day that the baby was turning a little bit blue and she had a little bit of a heart problem.

Q. So, within hours you were advised through your wife that she has been told by a specialist that there is some heart problem?

A. Yes.

Q. You learned that she was going to be transferred down to the Hospital for Sick Children?

A. Yes.

Q. In fact, she is transferred that day by ambulance and you go in the ambulance with her?

A. Yes, the same day she was born.



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Q. All right. She is down at The Hospital for Sick Children. Shortly after then she has tests; is that correct?

A. Not the first day she was there. It was too late in the afternoon for them to do anything.

Q. All right. To the best of your recollection you thought that Monday, December 15th, she has the first test in which you see, if you like, an x-ray picture of her heart?

A. Yes.

Q. All right. Is your wife present for that?

A. Yes, she was.

Q. So, your wife has left the Hospital fairly early that day and she hasn't stayed there for the normal amount of time after her birth; is that right?

A. Yes.

Q. She joined you and all the doctors are present as well?

A. Yes, they were.

Q. What takes place there, as you see Stephanie's heart displayed up on the screen?

A. Well, they took us down and they



1
DD2 2 were doing, I believe it was a cardiac for us to
3 show the heart.

4 Q. Yes.

5 A. And a little monitor. We
6 observed the heart and then there was some doctors
7 there, some nurses, and then we see what was wrong
8 with her heart. A doctor, I believe, pointed out what
9 was the problem with her.

10 Q. The following day being the
11 Tuesday again, December 16th, you know that another
12 test is going to be done; is that right?

13 A. Yes.

14 Q. That is a cardiac catheterization?

15 A. Yes.

16 Q. You knew with that there was a
17 slight sense of risk, that had been told to you?

18 A. Yes.

19 Q. All right. So your wife,
20 Norma, decides to come out of the hospital again and
21 come down for that test; is that right?

22 A. Yes.

23 Q. All right. I think before that
24 you decide as well that you are going to bring down
25 your parish priest and have her baptized?

A. Well, with that, to baptize her



1
DD3 2 before she would have an operation. Like, at that
3 time, they explain to us what the problem was and she
4 had to have an operation.

5 Q. Well, do I gather that you
6 thought the cardiac catheterization, if you like, was
7 kind of, if you like, a minor operation and you wanted
her baptized before that?

8 A. Yes, it was.

9 Q. All right. She is, and then
10 you have the cardiac catheterization, is that right,
11 on that day?

12 A. Yes.

13 Q. All right. And then later in
the day do you have a meeting with Dr. Rowe?

14 A. Yes.

15 Q. Who is present at the meeting?

16 A. Besides myself and my wife,
17 Norma, Dr. Rowe.

18 Q. All right. And what takes place
19 at that meeting?

20 A. Well, Dr. Rowe explained to us
21 what the problem was and he showed us how they were
22 going to go about it to fix it and explained what the
problem was with her heart.

23 Q. All right. Did he have a diagram
24
25



1
DD4 2 on the one hand of a normal heart?
3 A. Yes, he did.
4 Q. And did he have a diagram as
5 well of the heart of your child, Stephanie?
6 A. Yes.
7 Q. And he explained to you the
8 defects that Stephanie had?
9 A. Yes.
10 Q. And he wrote them down on a
11 piece of paper?
12 A. He wrote them down on a
13 pamphlet. It was a hospital pamphlet for the kids'
14 hearts, I guess.
15 Q. A hospital pamphlet?
16 A. Yes.
17 Q. All right. I am going to sum
18 up here. Did he tell you that there was a septal
19 defect, which you understood to be a hole in the heart?
20 A. At that time, I believe he
21 called it tetralogy or something like that.
22 Q. Tetralogy of Faillot? Is that
23 what he said, perhaps?
24 A. Yes.
25 Q. Or something like that. All
right. The problems were that she had a hole in her



DD5

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heart and she had a small pulmonary artery and she also had stenosis there of the valves?

A. Yes.

Q. Did he mention any numbers about her oxygen intake?

A. Yes, he did.

Q. What did he say was her utilization of oxygen at that particular point in time?

A. Well, at that time, he explained to us that Stephanie was only getting 45 per cent of oxygen.

Q. All right.

A. And normally she would take over 95.

Q. Finally then, he tells you all the defects. What does he say he is going to do to rectify that for you?

A. At that time he explained to us that he was going to do a shunt in her heart.

Q. Yes.

A. To correct the problem.

Q. Did he draw that right on the diagram for you?

A. Yes, he did.

Q. All right. What did he tell you



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about that operation and chances of it succeeding
in an infant so young as Stephanie?

A. At that time he stated that
since Stephanie was just a little baby, there may be
problems but, also, as I can recall at that time we
were talking to him, there was another child in the
room and apparently she had a shunt in her heart and
she happened to be about eight to ten years of age,
and he pointed that out to us that this child had a
shunt and it didn't seem to be any problem with her
now.

Q. There was another patient
obviously coming in to see Dr. Rowe and, to alleviate
your fears, he pointed out this child and tells you
that she, indeed, has had the same thing Stephanie
has?

A. Yes.

Q. All right. He tells you about
the shunt. Does he tell you that there might be any
follow-up some years down the road?

A. Yes, he did.

Q. All right.

A. He mentioned, since Stephanie
was so small --

Q. Yes.

A. -- they only could perform a



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small shunt but, later on, maybe four years later,
they might have to put a bigger shunt in her.

Q. As she got bigger, they would
put another shunt in?

A. Yes.

Q. Does he tell you that he would
do the operation or does he name the doctor who, in
fact, will do it?

A. Apparently at that time he did
not know. We find out later who it was.

Q. And it was?

A. Dr. Trusler, I believe.

Q. Dr. Trusler. The operation
then, does he mention when he is going to do that
operation?

A. He called me later on in the
evening and he told me that he was going to do the
operation the following day.

Q. Dr. Trusler does?

A. Yes.

Q. All right. That would be the
17th?

A. Yes.

Q. Did he tell you particularly
why? Because of the season or anything like that?



DD8

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A. I think he mentioned it was because it was Christmastime and Stephanie's condition, she should have it, the sooner the better.

Q. What does he say to you about risks in the operation? What does he say?

A. At that time I was a little bit concerned when he told me that it would be a 50/50 chance for the operation, to perform that kind of operation.

Q. All right. Did he put any time limit on the 50/50 chance or was it going to be 50/50 for the rest of her life type of affair?

A. No. He said they would be doing the operation.

Q. Yes.

A. It is a 50/50 chance, but then we will have to see after the operation.

Q. And the next day, I take it, you are probably running back and forth between the two hospitals to see your wife up in North Western and down to Sick Kids to see Stephanie?

A. Yes, I was.

Q. All right. The next day, though, you make it your business to be down at The Hospital for Sick Children?



Lombardo
dr.ex. (Shanahan)

DD9

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A. Before I went to see Stephanie the next day, I stopped by my wife's at the hospital.

Q. You end up at Sick Kids. Did you see Dr. Trusler after the operation?

A. Yes, I did, right after the operation. I was waiting for him.

Q. All right. He comes out and what does he say to you?

A. At that time I believe he said the operation was successful and the crucial time for her to get over after the intensive care.

Q. He seemed pleased and you were pleased?

A. Yes, I was.

Q. Did you ever see him again?

A. Not after that, no.

Q. Your wife is discharged from the hospital on Sunday, December 21st; is that right?

A. Yes.

Q. And up to that point in time, we know until roughly noon on Monday, December 22nd, that your daughter is in ICU?

A. Yes.

Q. All right. Can I sum up that in ICU, she would have had a tube in her nose, a



1
DD10 2 nasogastric tube?
3 A. Yes.
4 Q. She had a monitor on her heart?
5 A. Yes.
6 Q. She had a nurse constantly with
7 her all the time?
8 A. Yes. I was in the room with
9 her at that time right after the operation.
10 Q. But she had a constant care
11 nurse there?
12 A. Yes, she did. Yes.
13 Q. She had a little mask over her
14 face giving her oxygen?
15 A. Yes.
16 Q. She is just there in a little
17 incubator with no clothes, just her diaper?
18 A. Not at that time after the
19 operation. I believe she was in a little bed.
20 Q. Little bed. Was she in an
21 incubator?
22 A. Not an incubator, no; she was
23 in a little bed.
24 Q. She is obviously quite sick.
25 She has all the paraphernalia to help her get better?
A. Yes.



DD11

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Q. She has the attendance full-time
of a nurse?

A. Yes.

Q. All right. Now, I think you
were mentioning to me that she is transferred on
Monday, December 22nd, but the previous Friday you
get information about her condition; am I right?

A. Yes.

Q. All right. Tell us what that is.

A. Well, at that time, when we
were down there after she had stayed there for about
two or three days in Intensive Care, she was ready
to go up to Ward - I believe the fourth floor. There
was this doctor in particular and she explained to us
it was around Christmastime and there was no other
emergencies coming down, so she could have stayed down,
I believe it was where the Intensive Care Room was.

Q. Yes. Do you know who that
doctor was? We have, in your child's medical
records, a note on the 19th of December by a Dr.
Jedeikin which mentions a number of promising things
about Stephanie and her colour and her oxygen intake
and it concludes that she is a candidate for transfer
to the ward.

You felt on Friday, too, it was conveyed



1
DD12 2 to you that she was ready for the ward?
3 A. Yes, she was.
4 Q. You don't know who actually
5 had said that to you?
6 A. No.
7 Q. You gather that, "Listen, we are
8 not too busy here; really no harm done; let her stay
9 up here"?
10 A. Yes.
11 Q. So she does move on the Monday,
12 however?
13 A. Yes.
14 Q. Your wife is discharged from
15 the hospital and you all go down on the Monday to see
16 her?
17 A. Yes.
18 Q. You arrive there at about 11:00
19 in the morning?
20 A. Yes.
21 Q. All right. You stay there until
22 7:00 in the evening or shortly before?
23 A. Yes.
24 Q. All right. She is on 4A and
25 she is in Room 418?
A. Yes.



DD13

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Q. You have never been there before?

3

A. No.

4

Q. All right. Now, her condition -
she has no nasogastric tube, does she?

5

A. No, she didn't.

6

Q. As a matter of fact, now she
is being fed formula in a bottle?

7

8

A. Yes.

9

Q. And during the day your wife
actually takes over and feeds her?

10

11

A. Yes, she did.

12

Q. She has no oxygen over her face
provided to her? She is breathing room air?

13

A. Yes, all day.

14

Q. She is not on any kind of
monitor?

15

16

A. That, I don't recall.

17

Q. Cardiac monitors tied in to her,
watching her breathing and her respiration rate?

18

19

A. That, I don't recall.

20

Q. And she certainly is not on
constant care?

21

A. No, she wasn't.

22

Q. She was in a ward with another
child?

23

24

25



DD14

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A. Yes, she was.

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Q. Do you recall she was in the
middle bed on the west wall?

5

A. Yes.

6

Q. All right. One other child in
the room?

7

8

A. Yes. I can remember that child.
She was maybe anywhere from two to three years of age.

9

Q. You said she was a female child?

10

A. Yes, it was a female child.

11

Q. Where was her bed in relation
to your daughter's, Stephanie's?

12

13

A. I believe she was near the
window.

14

15

Q. Near the window. Do you know
the west wall Stephanie is on?

16

A. Yes.

17

Q. Is she on the west side as well?

18

A. I believe so, yes.

19

Q. All right. But closer to the
window as opposed to the door?

20

21

A. The other child was closer to
the window. I meant to say the outside window.

22

Stephanie was in between.

23

Q. Stephanie is closer to the door?

24

A. Yes.

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DD15

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Q. Do you know --this may be pushing it. Do you know if the other child was on an IV?

A. No. She was in the room walking around.

Q. So the only really remaining gadget, if you like, that Stephanie had was the IV line?

A. Yes.

Q. Did you know then the medications your child was getting?

A. I believe it was heparin.

Q. Did you know it then?

A. Yes.

Q. You did?

A. Yes.

Q. Did you know what the heparin was for?

A. No.

Q. All right. How did she look to you?

A. She looked fine.

Q. What was her colour like?

A. It was much, much better than we had seen her before.



DD16

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Q. All right. When she is fed by either the nurse or your wife, how did she take the feed?

A. Rather rapidly, because she was hungry.

Q. What did she do afterwards? Go to sleep?

A. No. We stayed until about 6:30, seven o'clock that evening, and we were there all day. After the first feeding, she went for a sleep.

Q. You leave and you don't meet the night nurses?

A. No.

Q. There is a note by Nurse Mandal that the day or the night you were there "asked a lot of questions; happy with her progress". Would that be a fair summation of your attendance there that day?

A. Yes.

Q. You go home and before you go to bed, what do you do?

A. Well, before we went to bed, it was late in the evening. My wife called the hospital around 11:30 that evening, and I believe it was Gloria



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DD172

Ganassin that my wife spoke to, and she assured us
that the baby has just been fed and she was just
resting comfortably.

4

5

Q. Some time in the night then
you get a phone call; is that right?

6

7

A. Yes, it was around about three
o'clock in the morning.

8

9

Q. It is a man, a male voice?

A. It was a male voice, yes.

10

11

Q. Who tells you to come in to the
Hospital?

12

A. Well, he told us Stephanie was
having breathing problems.

13

14

Q. Yes.

A. And to rush down to the Hospital.

15

16

Q. And you did that and you got
there around what time?

17

A. I believe it was about 4:30.

18

Q. When you arrived, what happens?

19

A. As we arrived, I met this male --
I can't recall if it was a male doctor or a male
nurse, but we met him in the corridor and he was kind
of shaking his head, saying that Stephanie had an
arrest and they couldn't help her.

23

24

Q. He was sorry that there was
nothing they could do?

25



DD18

1

2

A. Yes.

3

Q. And you gathered that Stephanie
had died shortly before?

4

A. Yes.

5

6

Q. All right. Who, if anybody,
takes you where or does what?

7

8

9

10

11

A. As we went down the corridor,
I believe there were two nurses and they let us into
the small parents' room. We didn't go in to where
the baby was at that time. They directed us
directly to the parents' room.

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DM.jc
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Q I take it is one nurse though,
one parts company and leaves and one stays on with
you?

A. Yes.

Q What happens then?

A. Well, as we were led into the
room then my wife asked to see the baby and one of
the nurses, says okay and she went to get the baby.
At that time I believe it was Phyllis Trayner that
brought the baby in to us.

Q You didn't know then who it was?

A. No.

Q You didn't know any of those
nurses on that shift, you had never dealt with them
before?

A. No.

Q One nurse has come in with
you and she stays with you for your stay there?

A. Yes.

Q You also subsequently find out
who she is?

A. Yes.

Q And who is she?

A. The nurse who stayed with us?

Q Yes?



EE.2

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2

A. I believe her name is Karen

3

Power.

4

Q. And is it fair to sum up that

5

Karen Power is the one who consoled you?

6

A. Yes.

7

Q. And the gist of her conversation

8

is to what effect?

9

A. I believe she was just trying

10

to comfort us, and at that time I believe she was

11

saying maybe it was the will of God, that Stephanie
had died at that time that she did.

12

Q. Yes.

13

A. Or we could have more children,

14

not to worry about it so much.

15

Q. Did she ever say to you that

16

she was not the nurse who cared for her, I'm really
from 4B and I just came over, or anything of that

17

nature?

18

A. No.

19

Q. Never said she is the one that

20

cares, or isn't, did she ever get any nurse for you
that could say, listen, I cared for Stephanie?

21

A. No.

22

Q. Then your wife brings up about

23

seeing the baby?

24

25



EE.3

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2

A. Yes.

3

Q. And that is when another nurse

4

comes with that baby?

5

A. Yes.

6

Q. And that is the nurse that you

now know to be Phyllis Trayner?

7

A. Yes.

8

Q. And gives you the baby?

9

A. Well, she hand the baby over to

10

my wife.

11

Q. And you and your wife are able

12

to see the baby?

13

A. Well, we seen the body.

14

Q. How long were you with her,

what ends that incident, why does the baby leave?

15

A. I believe we had the baby

16

maybe about 10 or 15 minutes.

17

Q. Yes.

18

A. We both had the baby, my wife

19

held her and then I held her, and then my wife she

20

wanted to hold her again and at that time I felt the

21

baby and she was quite warm.

22

Q. Yes.

23

A. And after a while then Phyllis

24

Trayner she asked to have the baby back.

25



EE.4

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Q. And what does she say when she asks for it back?

A. She said she was going to take her down.

Q. To?

A. She mentioned some - a room, I don't recall.

Q. A quiet room?

A. Something like that.

Q. The other nurse stays with you and she - Karen Power?

A. Yes.

Q. Does she also get a priest for you?

A. Yes, she did. She asked us whether we wanted a priest.

Q. Yes.

A. And she called the priest before the baby went away.

Q. The priest comes up, he is a hospital priest and he blesses the baby before it goes, am I right there.

A. Yes.

Q. You would have been with the baby for how long, 10 or 15 minutes?



EE.5

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2

A. About that, yes.

3

Q. And that would be the length

4

of time Phyllis Trayner would be there with the baby?

5

A. Yes.

6

Q. Did you see Phyllis Trayner

7

again after your stay there that evening?

8

A. As I can recall I just seen her

9

in the corridor on our way out.

10

Q. What happens, what takes place,

if anything?

11

A. At that time I just asked what

12

is going to happen now, I asked that question, what

13

is going to happen now.

14

Q. You said?

15

A. Yes.

16

Q. To whom?

17

A. I believe it was Phyllis Trayner.

18

Q. Did you know she had any

particular role other than just a nurse?

19

A. No.

20

Q. And what is the response to that?

21

A. Her reply was that they were

going to take the baby down for an autopsy.

22

Q. Yes.

23

A. And being the way it was, both

24

25



EE.6

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of us, my wife and I were very upset, then my wife started saying that the baby had suffered enough and she didn't wish to have the autopsy done.

Q. Apart from Phyllis Trayner being there for that period of time the baby is brought to you and Karen Power consoling you, does any other nurse, particularly does Gloria Ganassin come over, come in and deal with you there?

A. No.

Q. And any discussion there, and in fairness perhaps you were not even asked, any discussion there as to what had caused Stephanie's death?

A. Well before we left, I believe it was Dr. Rose, a female doctor, talked to us and said she was floor supervisor that evening and she told us what had happened, Stephanie had, she went into an arrest and they did the best they could have done and they could not have brought her back.

Q. But in terms of going one step beyond that, as to what caused that arrest, I take it you didn't ask and nobody said?

A. No.

Q. When your wife interjects about the autopsy, she has suffered enough and I take it,



EE.7

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2

and it is left at that?

3

A. Yes.

4

Q. Certainly nobody suggested to you the value that it may have had in determining her cause of death?

5

6

A. No.

7

8

Q. You make your way home. Do you ever see any other Hospital official shortly thereafter?

9

A. No.

10

11

Q. I understand some weeks later you met Dr. Rowe?

12

13

14

A. Well at that time since we didn't have no explanation we went back - we had called the Hospital and wished to speak to Dr. Rowe again.

15

16

Q. This was because you were --

17

A. We were concerned.

18

Q. And you arranged a meeting with Dr. Rowe?

19

A. Yes.

20

21

Q. December the 23rd Stephanie dies, so it would be roughly into the first or second week of January?

22

A. Yes.

23

24

Q. And you meet with Dr. Rowe at the Hospital?

25



EE.8

1

2

A. Yes.

3

Q. Anybody else but the two of you

4

and Dr. Rowe?

5

A. No.

(2)

6

Q. What takes place there, what

is the general discussion?

7

A. Well generally we went over

8

Stephanie's records and he explained to us who was

9

taking care of her. At that time he stated it was

10

Gloria Ganassin, that she was assigned to Stephanie,

11

and generally we just went over the records.

12

Q. These are the records that I

13

have here that you have had an opportunity to look

over yourself?

14

A. Yes.

15

Q. Apart from going over the

16

records and things of that nature, did he ever give

17

you a cause of why Stephanie died?

18

A. Apparently at that time he did

19

not know why Stephanie died.

20

Q. Any discussions about ICU, or

ward, or anything like that?

21

A. I don't know.

22

Q. How did that meeting conclude,

23

does he make any suggestion whatsoever as to how she

24

25



EE.9

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2

might have died?

3

A. He said - he didn't say

4

specifically but he said it may be since we didn't

5

have an autopsy on the baby that we had no way of

6

knowing what caused her death, but he said maybe,

7

perhaps her shunt had closed.

8

THE COMMISSIONER: I am sorry, maybe

what?

9

THE WITNESS: That her shunt had

10

closed.

11

THE COMMISSIONER: Oh, her shunt had

12

closed?

13

THE WITNESS: Yes.

14

THE COMMISSIONER: That was Dr. Rowe

who said that?

15

THE WITNESS: Yes.

16

MR. SHANAHAN: Q. Any discussion that

17

you regretted not having an autopsy, or anything of

18

that nature?

19

A. At the time we did, yes.

20

Q. Did you bring that up to him?

21

A. Yes.

22

Q. What was his comment on that?

23

A. Well he also said the reason

24

they didn't do the autopsy is because they didn't

25



EE.10

1

2

want to go against our wishes to have it done.

3

Q March 25th --

4

THE COMMISSIONER: I'm sorry, I seem to have missed that. What did you say?

5

6

THE WITNESS: He said since we didn't have an autopsy done he had no way of knowing what she died of.

7

8

MR. SHANAHAN: Q And something about couldn't go against your wishes?

9

10

A Yes.

11

Q March the 25th you hear that Susan Nelles has been arrested?

12

13

A Yes.

14

Q Did that cause you and your wife to do anything?

15

16

A Yes. As soon as we knew it was mentioned, you know, where those babies were we knew that our baby was on that ward also, so my wife she called the Hospital again.

17

18

19

Q And has a discussion with them?

20

A Yes.

21

Q Some time later is that discussion about the cause of death and what is going to happen?

22

23

A Yes.

24

25



EE.11

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Q. Would it be fair to say that you gathered then that they are going to look into everything?

A. Yes.

Q. April the 6th you get a registered letter from Dr. Rowe?

A. Yes.

Q. Would it be fair to say that much sums up again the same conversation that they will look into it, they are sorry for what has happened to you, the police will be investigating and they will be co-operating with the police, to that effect?

A. Yes.

Q. Then I think we have - nothing, everything goes quiet for the roughly 10 months, and again the following February, am I right?

A. Yes.

Q. February 1st the police, Sergeant Press and Warr come out to see you with respect to exhumation of your baby's body?

A. Yes, they did.

Q. They discussed it with you, but they also let you know that they do in fact have an order to exhume the body?



EE.12

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A. Yes. At that time I believe it was Sergeant Press, he said they had a Court Order that they were going to exhume Stephanie's body and the reason they came to tell us was that we would not have gone there and not found her there.

Q. They were coming up there to let you know what was happening?

A. Yes.

Q. And in fact there would be a reburial the next day and you could arrange for a priest to be there?

A. Yes.

Q. You realized she had been exhumed, you had the reburial and on February the 9th do you get some sort of telephone message from the police as to what they found?

A. Yes. I believe they called my wife, Norma.

Q. And what Norma obviously tells you then, what do you know as a result of that conversation?

A. At that time we believe Sergeant Press mentioned to her that Stephanie died of an overdose of digoxin.

Q. Is that categorical, or does



EE.13

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2

he really say they made findings of digoxin in some
of her tissue?

3

4

A. They had found digoxin in
some of her tissue.

5

6

Q. There is kind of a difference.
So in fairness is it that there was just findings of
digoxin in the tissues?

7

8

A. Yes.

9

10

11

Q. Does that lead you to suggest
then that you want to return to the Hospital now with
this this new piece of information and speak to them
about it?

12

13

A. Oh yes.

14

Q. And did the police assist you
in meeting with a Mr. Snedden?

15

16

A. Yes.

17

18

19

Q. You spoke to the police on
February the 9th and some time later in February you
go back to the Hospital and you meet with Dr. Rowe,
Mr. Snedden and what you believe a Mr. Rowe?

20

21

A. Yes.

22

Q. And you had a meeting there?

23

24

25

A. Yes, we did.

Q. And what is said there? I take
it obviously you must have brought up the information



EE.14

1

2

then of, well, we have been told that you had digoxin
in her tissues?

4

A. Yes.

5

Q. What is the nature of the
discussion?

6

7

A. Well, that we were down there,
I believe was Mr. Snedden that said the police are
taking all the records away, they didn't have much
information on Stephanie.

9

10

11

Q. Any mention about autopsy,
whether an autopsy would in fact have told them or
you about digoxin, anything of that nature?

12

13

A. No.

14

15

Q. The next event I take it is --
THE COMMISSIONER: Whenever you want,
Mr. Shanahan.

16

17

18

19

MR. SHANAHAN: Oh, I am sorry. I
won't be, I would say I will be about another five
minutes. So we will take a break, I just say that
is all I have.

20

21

THE COMMISSIONER: All right. Then
we will recess.

22

23

24

25

--- Short recess.



1
2 --- (Upon commencing)

3 THE COMMISSIONER: Just before you go
4 ahead, Mr. Shanahan, I want to say something about
5 the course of events this week. Dr. Kobayashi is
6 coming tomorrow morning. There may be another
7 witness tomorrow but my suspicion is that we will
8 at some point tomorrow under pressure from me that either
9 Mr. Lamek or Miss Cronk will confess that they have
10 no immediate plans to call any more witnesses and
11 at that time I am quite happy to receive any
12 submissions from any other counsel as to witnesses
13 that they think the Commission should have called
14 and didn't because those witnesses will not be
15 under their control and at that time I will probably
16 ask all other counsel to let me know what witnesses
17 they intend to call on their own. The only control
18 I have over that is that it is in the statute, they
19 can only be called if they affect their interest and
20 if they don't affect their interest, and it is my
21 opinion they don't, they won't be called. But I do
22 intend to proceed on Wednesday as I have explained
23 it to Mr. Sopinka's juniors, all of his juniors
24 that I can find, that we will proceed with this
25 matter on Wednesday on Phase II and we may or may
not go into that matter on Thursday and we of course



1
2 may conceivably have another witness on Thursday.

3 When we have finished the evidence
4 will - I can do it before hand - I am quite happy
5 to receive representations on how long you want to
6 prepare for argument and how argument should be
7 proceeded with. But I don't want anybody saying
8 that they haven't been warned that this sort of thing
9 is going to happen. I can't say when it will
10 happen. If I all of a sudden say to Mr. Hunt or Mr.
11 Young what witnesses do you intend to call on Phase I
12 I would like them to have some answer available and
13 also to have their witnesses, if they are going to
14 call them, to have them lined up so we won't lose time.

15 It is my hope that witnesses you do
16 intend to call will not take - it may be a forelorn
17 hope but will not in total take longer than a week.
18 and I would certainly think that by the end of next
19 week we will be adjourning for argument in Phase I.
20 However, we will see how that develops.

21 So, would Counsel please be prepared
22 for what may happen tomorrow as to what witnesses are
23 to be called, either argument on those that have not
24 been called or state what you intend to call yourself
25 but Counsel will be ready for the argument on Phase
II on Wednesday.



1

2

Yes, Mr. Young?

3

4

MR. YOUNG: Sir, might I have some indication as to who this mystery witness might be tomorrow?

5

6

THE COMMISSIONER: The mystery witness? The only one I know is Dr. Kobayashi.

7

8

MR. YOUNG: Is there a possibility of another witness being called?

9

10

THE COMMISSIONER: Well, Miss Cronk is interviewing someone tonight, a nurse who may or may not be called.

11

12

13

14

MR. YOUNG: I won't press the issue but I wonder if by tomorrow morning we might hear if this witness will in fact be called and what issues she would be addressing.

15

16

17

18

MS. CRONK: As always, sir, if we intend to call a witness we will advise all Counsel as soon as we possibly know and the nature of the evidence to be led.

19

20

THE COMMISSIONER: The chances are the witness will not be called.

21

MR. YOUNG: Oh, I see.

22

23

24

25

THE COMMISSIONER: But there you are. So, I couldn't say that there couldn't be one but I tried to dissuade Miss Cronk but she doesn't always



1
2 dissuade you know, I can't tell.

3 Yes, all right Mr. Shanahan.

F4 4 MR. SHANAHAN: Mr. Lombardo, where we
5 left off I think it was on February 9th you had been
6 told by Sergeants Press and Warr that levels of
7 digoxin had come back in the exhumed tissue of your
8 daughter and I believe you had set up a meeting in
9 February of '82 at the Hospital with Dr. Rowe, Mr.
10 Sneddon and a Mr. Rowe?

11 A. Yes.

12 Q. We concluded that meeting. The
13 next event it seems to me was, you were aware of the
14 preliminary hearing ongoing with respect to the
15 charges against Susan Nelles?

16 A. Yes.

17 Q. All right. And you received
18 information that in fact it was coming to an end
19 and Judge Vanek was be giving his Reasons on or
20 about May 21st of '82?

21 A. Yes.

22 Q. All right. Did you attend to
23 hear those Reasons?

24 A. Yes, we did.

25 Q. All right. Had you been made
aware or had you gathered that in fact your daughter's



1
2 death had been brought up as similar fact evidence
3 at that preliminary hearing?

4 A. Yes.

5 Q. I see. And of course you
6 heard His Honour Judge Vanek's Reasons?

7 A. Yes.

8 Q. You actually received a copy
9 of them?

10 A. Yes, we have.

11 Q. All right. Well, how did you
12 feel at the end of the preliminary when you realized
13 Judge Vanek said in fact there were some murders
14 and Susan Nelles was to be discharged and you realized
15 that your child had been discussed there, what was
16 your reaction to all of this?

17 A We were quite surprised that
18 all this time we had nothing learned about our baby.

19 THE COMMISSIONER: You were quite
20 surprised that all the time what?

21 THE WITNESS: That we hadn't learned
22 nothing about our baby at that time.

23 MR. SHANAHAN: Q. Is it fair to
24 say then that you were still perplexed, they had
25 found digoxin?



1

2

A. Yes.

3

Q. You knew she was not on digoxin?

4

A. Yes.

5

Q. You knew she had been discussed

6

at the preliminary hearing with respect to Nurse

7

Susan Nelles but again you knew she had been discharged?

8

A. Yes.

9

Q. You knew some babies had been

10

murdered but you didn't know whether yours was one
of them?

11

A. No.

12

Q. You didn't even really know if

13

digoxin was the cause of death?

14

A. I beg your pardon?

15

Q. You didn't even really know if

16

digoxin had been the cause of death at this point
in time?

17

A. No.

18

Q. All right. Over the months, May,

19

June and July of '82 you meet with other parents, you

20

meet with the police and they keep you informed about

21

everything that they know and that they are aware
of?

22

A. Yes.

23

Q. Telephone you and visit you

24

regularly?

25



1

2

A. Yes.

3

FF7

4

Q. All right. You come forward
then to September of '82 and you receive your copy
of the Dubin Report?

5

6

A. Yes, we did.

7

8

Q. You arranged to go down to, as
you referred to him, Mr. Dubin to speak to him about
his recommendations?

9

A. Yes.

10

11

Q. And although not speaking to
him you do speak to some other people there with
respect to those recommendations?

12

13

A. Yes.

14

Q. All right. And shortly thereafter
September 17th I think is the date, you advised me
there is a press release and there is discussion
about the Atlanta Report and it being made public
and available?

18

A. Yes.

19

Q. All right. I take it then the
police --

20

21

THE COMMISSIONER: I'm sorry, what did
you say about the Atlanta Report?

22

MR. SHANAHAN: Well, sir, --

23

THE COMMISSIONER: It was a throw away

24

25



1
2 line but I don't think it represented the facts.

F8 3 MR. SHANAHAN: No, all right. I see
4 Mr. Young here behind me is in a state of apoplexy.

5 You were aware of it being undertaken
6 and you were aware that from the police certain
7 deaths, not as a result of the Report itself, but
8 certain deaths were in certain categories, some more
suspicious than others and things of that nature?

9 A. Yes.

10 Q. All right. As a result, the
11 police to assist you I take it set up a meeting with
12 yourself and other parents at the Centre of Forensic
13 Sciences downtown on Grosvenor Street?

14 A. Yes.

15 Q. And you had a meeting there on
16 October 14th '82?

17 A. Yes.

18 Q. And the police bring you up to
19 date on everything they have up to that point in time?

20 A. Yes.

21 Q. All right. And I believe then
22 you too meet Ruth Doehler?

23 A. Yes, I did, I had a meeting with
24 her, yes.

25 Q. And up date yourself and then



1
2 in early 1983 in fact you were in communication with
3 Nurse Power?

4 A. Yes, we had a meeting with her.

FF9 5 Q. Early '83 you contact her, do
6 you?

7 A. Yes, we did. I contacted her
8 because that's the time we had learned that she was
9 in the room with us and she was the nurse that was
10 in there when our baby died.

11 Q. All right. And when you say in
12 the room with us, you mean in the room when you
13 arrived at the Hospital and you learned the baby has
14 died?

15 A. Yes, we learned that afterwards
16 that she was the nurse.

17 Q. And she is the nurse that has
18 stayed there all the time through the goings and
19 comings of the Priest and Phyllis Trayner bringing
20 you the baby and leaving with the baby?

21 A. Yes.

22 Q. All right. Would it be fair to
23 say that prior to that there was some thought in your
24 mind that this might be in fact Nurse Susan Nelles?

25 A. Yes, there was because she
was also a small nurse.



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Q. All right. But through looking at pictures and everything and information received you finally realized that in fact it is not Nurse Nelles it is Nurse Power?

A. Yes.

Q. You contact her and ask if you can in fact meet with her at her home?

A. Yes.

Q. And she says fine?

A. Yes.

Q. Then you go there and have a meeting?

A. Yes, we had a meeting with Miss Power.

Q. Would it be fair to say you satisfied yourself from seeing her that she wasn't Nurse Nelles?

A. Yes.

Q. You satisfied yourself that she was the Nurse that had spent most of the time consoling you?

A. Yes.

Q. And in fact you put to her then the possibility could Nurse Nelles, as far as she was concerned, maybe have slipped back into the



1 Hospital?

FF11 2 A. Yes, we did.

3 Q. All right. And she assured you
4 that as far as she knew Nurse Nelles hadn't been
5 around?

6 A. That's right.

7 Q. All right. In terms of the
8 cause of death of Stephanie, was she able to illuminate
9 that issue or clarify that issue any more?

10 A. No, she didn't.

11 Q. You were with her for how long?

12 A. I would say maybe about 45 minutes
13 to an hour.

14 Q. All right. I take it she was
15 friendly and frank but really didn't add anything?

16 A. Yes, very friendly.

17 Q. At some point in time later you
18 have -- I'm sorry. Did you put to her when you
19 realized then that in fact she wasn't Nurse Nelles
20 and you realized that another Nurse by the name of
21 Ganassin had looked after your child, did you put to
22 her where had Ganassin been or why had she spoken to
23 you instead of Ganassin?

24 A. Yes, we did. We had asked her
25 that question and I believe at that time Miss Power
said since she was at the Hospital longer than Miss



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TORONTO, ONTARIO

Lombardo, dr. ex.
(Shanahan)

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Ganassin that she had more experience with parents
and she was the one that stayed to talk to us.



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Q. At this point in time does the name Trayner or the role of Phyllis Trayner as team leader or anything of that nature, are you familiar with that at all?

A. No.

Q. So, you don't put to Nurse Power where was the team leader or who was the team leader or anything like that?

A. No, we did not.

Q. And then you arranged to meet the Attorney General of the province?

A. Yes, we did.

Q. All right. And you persist in getting that meeting and that meeting comes around in June, does it not?

A. Yes.

Q. Then shortly before that it has been announced there is going to be this Commission of Inquiry into the Hospital for Sick Children and the deaths?

A. Yes.

Q. All right. You meet with him in any event and just convey your feelings about that?

A. Yes we did, yes.

Q. In light of the Atlanta Report,



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what you now know of it, and in light of what you know from reading transcripts of the preliminary hearing, what you know about the evidence that has been received here, what you know about the toxicology results on your daughter Stephanie, do you feel your daughter died of natural causes?

A. No.

MR. SHANAHAN: Thank you.

THE COMMISSIONER: Mr. Lamek?

MR. LAMEK: No, I have no questions, thank you.

THE COMMISSIONER: Mr. Fischer?

MR. FISCHER: I have no questions.

THE COMMISSIONER: Miss Rae?

MS. RAE: No questions.

THE COMMISSIONER: Mr. Hunt?

MR. HUNT: No questions.

THE COMMISSIONER: Mr. Young?

MR. YOUNG: No questions.

THE COMMISSIONER: Mr. Roland?

MR. ROLAND: No I have no questions.

THE COMMISSIONER: Miss Chown?

MS. CHOWN: No questions.

THE COMMISSIONER: Miss McIntyre?

MS. McINTYRE: Sorry to disappoint you



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sir, I do have a couple of questions.

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THE COMMISSIONER: No, no, that's fine.

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CROSS-EXAMINATION BY MS. McINTYRE:

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Q. Mr. Lombardo, I am Elizabeth McIntyre and I represent the Registered Nurses' Association of Ontario and various nurses, including Karen Power, and I wanted to ask you a couple of questions about your meeting with Karen Power the night that Stephanie died.

First of all, can you tell me how long that lasted? How long she spent with you that night?

A. Who?

Q. Karen Power.

A. The night when the baby died?

Q. Yes. She was the nurse, you said, later identified as the nurse who spent some time consoling you.

A. I'm sorry, I don't quite follow that.

Q. Okay. The night that Stephanie died --

A. Yes.

Q. -- you had said that there was a nurse who spent some time with you in the parents' room and had arranged for the priest to come, et cetera --



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A. Yes.

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Q. -- and consoled you and
comforted you. How long did that meeting last
with her?

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A. It would have been about half
an hour, 45 minutes.

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Q. 45 minutes. During that time
was she helpful in trying to console you?

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A. At that time, I thought she was
rather over-sympathetic with us.

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Q. Okay.

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THE COMMISSIONER: I'm sorry, what
did you say? You thought she was what?

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THE WITNESS: I thought she was over-
sympathetic when she was in the room with us because
she kept on saying that maybe it was the will of God
the baby had died at the time when she died. She
kept repeating that if I want to take a taxi home,
she would call one.

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MS. MCINTYRE: Q. So, she was
sympathetic with you, was she?

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A. Yes.

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Q. And your counsel suggested to
you that she wasn't the nurse who had in fact cared
for Stephanie during the evening. Did you know that at

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the time?

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A. No.

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Q. Did you ask to speak to the
nurse who had cared for Stephanie?

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A. At that time I didn't, no.

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Q. You didn't ask to see anybody
else?

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A. No.

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Q. I take it that you were satis-
fied with what Miss Power was doing for you and saying
to you at that time?

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A. I don't remember if we were
satisfied, because I was a little bit disappointed
with the way she was behaving towards us and I know
she was a little bit too over-sympathetic.

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Q. Did you ask to see any other
nurses?

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A. No.

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Q. Okay. Now, I take it that you
again saw Karen Power quite a long time after that?

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A. Yes.

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Q. And at that time you identified
her as being the nurse you had seen at the Hospital
that night?

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A. Yes.

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GG4 2 Q. Whose idea was it that you
3 went to see Karen Power?
4 A. It was our idea, my wife and
5 my idea.
6 Q. Did you go with the police to
7 see Karen Power?
8 A. Apparently not. I believe at
9 that time -- I don't recall it was Mr. Warr. He
10 had spoken to her before to see if she would okay the
11 meeting with us and she said, okay, and then we called
12 her later on.
13 Q. So the police arranged the
14 meeting?
15 A. Yes.
16 Q. Did any of the police officers
17 go with you --
18 A. No.
19 Q. -- to see Karen Power?
20 A. No.
21 Q. You went on your own?
22 A. We went on our -- my wife and I
23 went.
24 Q. She was quite willing to see you;
25 is that right?
A. Yes.



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GG5 2 Q. And quite helpful?
3 A. At that time, yes.
4 MS. MCINTYRE: Okay. Thank you
5 very much.
6 THE COMMISSIONER: Thank you, Miss
7 McIntyre.
8 Mr. Olah?
9 MR. OLAH: No questions.
10 MR. LABOW: No questions.
11 THE COMMISSIONER: Mr. Tobias?
12 MR. TOBIAS: No questions, sir.
13 THE COMMISSIONER: Mr. Lamek?
14 MR. LAMEK: No questions.
15 THE COMMISSIONER: Mr. Shanahan?
16 MR. SHANAHAN: No questions, thank you.
17 THE COMMISSIONER: Thank you, sir.
18 Thank you indeed.
19 --- witness withdraws.
20 THE COMMISSIONER: Now, you have no
21 further witnesses, Mr. Shanahan?
22 MR. SHANAHAN: I'm sorry, sir. No, I
23 don't. .
24 THE COMMISSIONER: All right. We have
25 run out, I guess. There is nothing we can do today.
We will just rise until ten o'clock tomorrow.



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MS. McINTYRE: Before we do rise, I am wondering when Mr. Hunt is going to make his position known with respect to Phase II, as that may affect our position on the possibility of seeking --

THE COMMISSIONER: It will indeed affect my position on whether you get it or not, too.

He is not to be asked. I am going to ask him on Wednesday, and he doesn't have to tell us, but I have asked him if he will tell us.

MS. McINTYRE: I see, because it certainly would be helpful to know the position of the Attorney General, at least for us to determine what position we should take.

THE COMMISSIONER: You have heard Miss McIntyre's plea, gentlemen. All I can say is I don't expect you to say anything until Wednesday, and you may well decide that you don't want to say anything then, too. I looked at them, but that is as far as I got.

MS. McINTYRE: Thank you, sir.

THE COMMISSIONER: All right, tomorrow at ten.

--- whereupon the hearing was adjourned at 4:00 p.m. until Tuesday, the 8th day of May 1984, at 10:00 a.m.

